United States Court of Appeals for the Second Circuit



APPENDIX

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74-1550

IN THE

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

NO. 74-1550

THE UNITED STATES OF AMERICA,

Plaintiff-Appellee,

-against-

CARMINE TRAMUNTI, et al.,

Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

DEFENDANTS-APPELLANTS' JOINT APPENDIX Vol. T(36) - Pages 4959 to 5145

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my time, and I don't intend to waste my time.

This morning I got up earlier than usual to make sure I would be here on time and as I was sitting in the kitchen drinking coffee and looking out the window a couple of planes flew overhead going to Jersey, and to the left there is a very, very big building going up with a massive orange crane going right up the side of the building, and I thought to myself, my God, in the Twentieth Century, when you can send people to the moon and they can take your genes apart and find out why you have brown eyes and green hair, why do men's freedom hang on an archaic system like this, why can't you take witnesses and really prove somehow where they are telling the truth and where they are lying, why can't you deduce it to a scientific certainty, so that I don't have to come into court and have the responsibility of a man's life on my skinny shoulders.

But you know, when you think about it the answer is really apparent. Machines aren't up to this kind of task. If you have ever gotten a bill from the computer at Sears-Roebuck you know what I mean. You keep sending back these letters saying, "I paid already, I paid already," and the computer keeps sending you back the bill. Machines just aren't up to certain tasks.

When it comes to looking into mind and heart of a witness, when it comes to that process which maybe can

THE PURTIES COURT REPORTERS, U.S. COURTHOUSE

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only be described as eyeballing somebody, looking at them and really looking into their hearts, you know that only a human being can do that. No machine will ever replace the jury system.

But there is a saving grace, ladies and gentlemen, because I know, I know that as long as I can stand before twelve people who are willing to listen, who are willing to open their hearts and try to be free from prejudice, from prejudgment, I know my client has a chance of getting real justice.

Now, on the subject of prejudice, as long as the word is out already, I want to mention a few things which should have no place in your deliberations, but unfortunately frequently, because we are human beings and wonderfully different, composed of so many different aspects and characteristics, we frequently operate on prejudice.

I don't know if you ladies and gentlemen know where you are sitting. This courtroom might well be dubbed conspiracy courtroom. You are sitting in the seats that the jurors sat in who tried the Dennis case during the Communist era. You are sitting in the seats that the jurors sat in when Julius and Ethel Rosenberg were tried. This really is conspiracy courtroom.

There are things about a conspiracy case that

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make it particularly hard for a defendant to get a fair break. The evidence in this case taken at its very best shows that Louis Inglese knows maybe two or three of the other people sitting at that table of the sixteen other people.

Conspiracy is a wonderful thing, because if there is a tremendous case, a highly probative and convincing case against someone else, you might getriled up enough, blinded enough to forget exactly what the evidence is against him, and this is known in the jargon of prosecution and defense lawyers as the ferryboat effect, because when the ferryboat goes out into the water it drags with it all of the waste materials and garbage sitting on the surface of the water.

These men are here en masse not because they chose to be, not because each one of them wouldn't rather sit here alone with his lawyer and meet the evidence only as it applies to him. They are here together because the prosecution hopes that enough will be said that the words will become a jumble in your mind and you will forget what Stasi said about this one and what Barnaba said about that one and everybody will go down together.

That is one of the big problems with trying a conspiracy case and it's one of the things that you ladies

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and gentlemen have to try your very best, with the best honest effort you can make, to avoid.

Now, there are a couple of other things I would like to mention on the subject of prejudice. Louis Inglese is not exactly Robert Goulet, not too handsome. You may not like the way he looks. But that is not something which should cross your mind or influence your feelings. Maybe that hasn't even entered your minds, but I want to say that word just so that you are on guard against letting something like that cross the path of your mind.

Louis Inglese is Italian, and if you read the newspapers today, if your name ends in a vowel, that is already enough to overcome the presumption of innocence. But if any of you jurors have ever in your lives experienced the sting, the poison of prejudice because of your religious background, your ethnic background, your racial background, you know that that is the worst, most invidious kind of poison in the world. And I will tell you something which maybe you don't know from my last name. I am Italian, and if anybody looked negatively on me because of it it would be a sorry day for them.

There are other things in this case which were injected deliberately by the prosecution to create preju-They introduced a million dollars in this case, which is not tied up by any evidentiary fact, by any piece of testimony, to anything else going on in this case. And do you know why? Because they know you ladies and gentlemen come from backgrounds, from ways of life where that kind of money is unheard of, and the purpose and the desired effect is to give you mentally a punch in the nose, to shock you out of thinking and into acting on prejudice, and I beg you, ladies and gentlemen, don't let that kind of chicanery, because that is all it is, don't let that sway you. That money has no rightful evidentiary, probative place in this case. I think enough said about that.

One other thing on the subject of what doesn't belong in your deliberations. Gigi -- and that is his nickname -- Gigi is what you might call the Howard Samuels of Wilkinson Avenue. He is a gambler. absolutely no question about that. But that is not what he is on trial for. He is not on trial for not being an everyday, 9-to-5, working, ordinary Joe. He is accused of a heinous crime. He may not be like you men and women in the sense that you ladies and gentlemen

have jobs, 9-to-5 type, maybe office jobs, maybe construction jobs. He may not be like you in that sense.

But he is like you in a more important sense. He is like you in the sense that he was born with the same freedoms and the same protections that clothe you.

He is like you in the sense that if you were on trial you would want not to be judged, not to be accused or convicted because of being a gambler or not being like the man that lives next door to you. You have to look beyond these things and understand that he is a human being and treat him in that light.

cases about the presumption of innocence and burden of proof beyond a reasonable doubt, but when you work in the kind of job I work in day in and day out you know how chimerical and how whimisical, how fleeting those things can be. Those concepts don't live. They don't help or protect anybody unless you men and women make them live. But let'me tell you something. If they don't live for Gigi Inglese, the gambler, they don't live for you and they don't live for your children.

Now, let's look at the evidence. I want to start not chronologically with how it came from the stand but how it seems to me it is sensible to

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approach it.

There are ficts in this case which cannot be avoided by the prosecution and all of those indisputable, unchangeable facts point to Frank Stasi's being a liar.

Think back in your minds to the night of May 22, 1973. That, in case you don't remember, is the night Frank Stasi was arrested. I want you to picture the scene.

Frank Stasi is walking out of the apartment house on Vincent Avenue with this massive corrugated box full of strainers, masks, mannite, whatever else he had in there, and he puts it in the trunk of his car. Now freeze that scene in your mind. At that moment in time six or eight members of New York's finest walk up to Frank Stasi and tap him on the shoulder. "Hey, Frank, your time is up. We've got you."

Frank Stasi is a street-wise guy. He knew at that moment in time -- or let me put it this way he had that feeling, that moment-of-truth feeling, that you have only a couple of times in a lifetime, and maybe one of them is when you face death itself and you know that's it, you have had it. He had that sense or something very close to it.

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Now, it is of particular significance that when he was arrested he was carrying this box of mixing utensils, and I will tell you why: What was the sum and substance of Frank Stasi's testimony in this courtroom? By and large, it was the eight mixing sessions. Sure, there were a couple of embellishments, a conversation here, a conversation there. But the real bulk of it was the mixing sessions.

I submit to you ladies and gentlemen that testimony was born when Frank Stasi walked out of his house with that box of mixing goods. And I will tell you why. If Frank Stasi had been caught with a package of narcotics in his hand do you know what he would have said? "I'm a delivery boy. I deliver narcotics. That's my job. They are not mine. I deliver for that other guy."

But Frank Stasi was caught with a box of mixing goods, so his story was, "I'm a mixer." This is where this was born.

Now, think about it. Think about the rest of his testimony. All of the mixing sessions that he describes have the quality of creation and fantasy about them. You see, when you really tell the truth there are details, irrefutable little letails that crop up and

we have an entire fabric that stands up and says the truth. But when you lie there are gaps that you can't fill in.

Frank Stasi wove a cloth full of holes. Mixing sessions were always three months apart, three kilos, Joe Crow, or whoever, took them and delivered them that night, he never saw where they went. Why does this have the ring of a lie?

Let me give you an analogy to think about.

When you have a glass and it is crystal and you bang

your nail against it it has the ring of crystal, and

when you bang an ordinary water glass it is glass, and

that's what Frank Stasi's testimony is.

All of his testimony about the mixing sessions follows a pattern and it is a pattern contrived in his mind to avoid detection of the truth, not only by Louis Inglese, who would love to prove him a liar, but by the government, because he doesn't want to get caught defrauding them either.

Let me stop for a moment here and put something in before I go on with the analysis of the evidence.

I know that the very hardest thing for you ladies and gentlemen is to conceive of how a man can come into a courtroom and point a false accusing finger at another

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human being and put that other human being's life in jeopardy. You say to yourself, "My God, you can't really do that. If he comes in here and says it it must be the truth. How could he live with himself for the rest of his life?"

But you see where your analysis is faulty?

You are trying to judge Frank Stasi and John Barnaba
as if they were men of conscience, like you. But think,
ladies and gentlemen. Would you if you were starving
to death, if your kids were starving to death, would you
ever sell heroin? Think about that. You never
would. Never.

But these are men capable of doing that, and if they are capable of doing that, and their own very lives are in jeopardy, do you think it takes a lot for them to accuse someone falsely? Wrong, it doesn't, because the worst that can happen is maybe he will be proven to be a liar. And what will happen? He will face the charges that he is facing anyway. So what has he got to lose?

You make a big mistake if you think that

Frank Stasi and John Barnaba are men of conscience.

They are not. They are not. And they know, they
are sensible enough to know that when you point an

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accusing finger and say "Drugs, heroin," people go

(indicating), "I don't want to hear any more. You said
enough."

Back to the evidence.

Why is it that when Frank Stasi was asked,
"When were the mixing sessions?" he said, "'70, '71 and
'72"? He couldn't give us a month, all he could say
was every three months.

Was it really every three months? Do
things happen like that in a real drug business? Are you
assured of getting three kilos every three months?
That is just not the way it works. When your suppliers
got the goods, whenever that happens to be, that's when you
get them. And it may not be three ki's, it's whatever
he got and anything you think you can move. It's not
every three months three ki's. But maybe you have
to know a little bit more about drugs and the drug business
to appreciate that type of argument. I hope the common
sense of it appeals to you. That is No. 1.

No. 2, in his testimony was there ever an occasion, except for the time that they actually bought the mixing paraphernalia from this store and that store and that store and that store as he says that they moved the box? No way. You don't walk around with this stuff. And that

wasn't his testimony.

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The only time he is caught with the box of mixing materials, transporting it some place, doesn't

fit in with the other eight mixing sessions.

And another thing in that line. Frank

Stasi can never tell us where the goods are going, except
to say that he saw John Barnaba pick it up. That business about Joe Cab was just the flimsiest, most absurd testimony. He has put in just enough to explain his own possession of the mixing paraphernalia.

Now, what else happened on that day? Where did he tell the police he was going with the box of mixing things? He said he was going to the Flaming Pit to meet a guy named Jimmy.

Now, undoubtedly when he said Jimmy, someone said to him, "Jimmy who?" And he came up with
this name Jimmy Wyatt Earp. Jimmy Wyatt Earp was
never mentioned before, was never heard of since, you
never saw a picture of him. You know why? Jimmy
Wyatt Earp is a phantom.

Now, I want you to think, ladies and gentlemen.

How many cops arrested Frank Stasi? Four, five, six?

Who knows. He says to them, "I'm going to meet Jimmy

Wyatt Farp."

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Did anybody go to the Flaming Pit and look

for Jimmy Wyatt Earp? I mean, you would want to know.

You would want to know who Jimmy Wyatt Earp is. You

would want to know why he was going to meet him.

Maybe they went to the Flaming Pit and looked for Jimmy Wyatt Earp. But one thing is sure, they never found him. You know why? Because that was a figment of Frank Stasi.

Now, what was he really doing on that day?

Where was he going with that box? Who knows. Who knows. But the point is, and I think when you think abou it it is ever so self-evident, Frank Stasi's testimony about being a mixer grew from that seed. He was caught with the box of mixing things.

Now, I said something to you earlier which I have to follow up on. In his testimony when he was asked when he mixed he said, "'70, '71 and '72." He never said '73. Why? Because in '73 Frank Stasi is caught red-handed. He is dealing with agents. He is selling a pound of heroin on two occasions to Detective -- now Detective Albert Casella. So he knows, he is smart enough. Frank Stasi is no fool. Don't buy that one. This man is no fool. He is smart enough to know that anything he says in 1973 can probably be

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checked. He knows the ways of the street. He knows once he makes that first sale he's got a tail wherever he goes. He knows he can't say anything about Louis Inglese in 1973, about mixing, about packages because it could be checked, because he could be checked, because he has been followed.

So all of a sudden Frank Stasi, who can't remember what he had for breakfast, knows that he mixed in 1970, '71 and '72. He doesn't dare say a word about '73. Why it stops, why the pattern breaks, there is no explanation. There is no explanation because it doesn't have the ring of truth because he is a liar. He is trying to relegate himself to a minor position, putting a way on somebody else to save his own neck. That's the long and short of it.

Now, you say to yourselves, as naturally you would, "Why would he pick out Gigi Inglese?"

Why? Are you going to name the president of a local bank who has a 9-to-5 job? You can't do that. You can't put a finger on somebody who is a regular 9-to-5 working guy, because it's all too easy, as I submit to you was done in this case, for people like that to come in and show you that they are law-abiding citizens. But a Louis Inglese has no defense.

If he gets on the stand and says to you ladies and gentlemen in his own unstudied, unschooled speech, "This guy used to work for me, what do I know what he's doing," do you know what the prosecutor gets up and says? "Whose word do you have, ladies and gentlemen, a gambler. You are going to believe him? He's a defendant here. Do you think he is not going to lie to save himself?"

That is what you are going to hear.

The only thing, the only defense he has is to tell you ladies and gentlemen scrutinize what has been said to you and see the lie.

Now, the Frank Stasi that was arrested on May 22, 1973 is not the Frank Stasi that walked into this courtroom. You have to appreciate that.

This is now -- I guess he testified some time in February. That 10-month process was really like the rebirth of a man. Frank Stasi has been worked over day in and day out to produce the albeit imperfect product that was on that witness stand.

Now, we had something in this case which you rarely have. We actually had the taped sessions of Frank Stasi's interviews with the police.

You have to understand something. When the

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police arrest a guy like this, they really don't know how much he knows, how connected he is, so that they are susceptible to the same kind of fraud which you ladies and gentlemen are. If he tells them that he dealg with Joe Blow, there is really no way for them to check it, especially if he says, "I dealt with Joe Blow in 1970."

They know he is a drug dealer, they don't know where the know where to draw the line, they don't know where the truth and falsity stops, but o-nce they get a witness, they want to make him the best possible witness so they start to clean up the little inconsistencies, they start to add the touches that they know will impress the jury.

Let me give you one such touch. This is something we can document. This is something we got on tape that cannot go away.

Frank Stasi testified that he had been in

Louis Inglese's basement counting money on a few occasions and saw amounts up to 30 and 40 thousand dollars.

Now, this is one of those touches that is designed to punch you in the nose, to shock you. This is a touch lent -- and I know I am going out on a limb when I say this but I think I can back it up -- this is a touch lent by the police officers, a creation on their part.

How do you know? You know because I proved it.

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At page 693 of the record on cross examination

I asked Stasi about an interview that he had with the

police on July 10, 1973. Now, the date is important.

He was arrested in May. By July he was already in

protective custody. Do you know what that means,

protective custody? It doesn't mean they are pro
tecting him from the defendants, it means they

are not letting him get away. It means they have him

stashed in a hotel room and there are teams of interro
gators with him day in and day out going over the testi
mony. That's what protective custody means. It

means you are in the grip. And Frank Stasi knows

that if he ever had a chance to turn back, he doesn't have

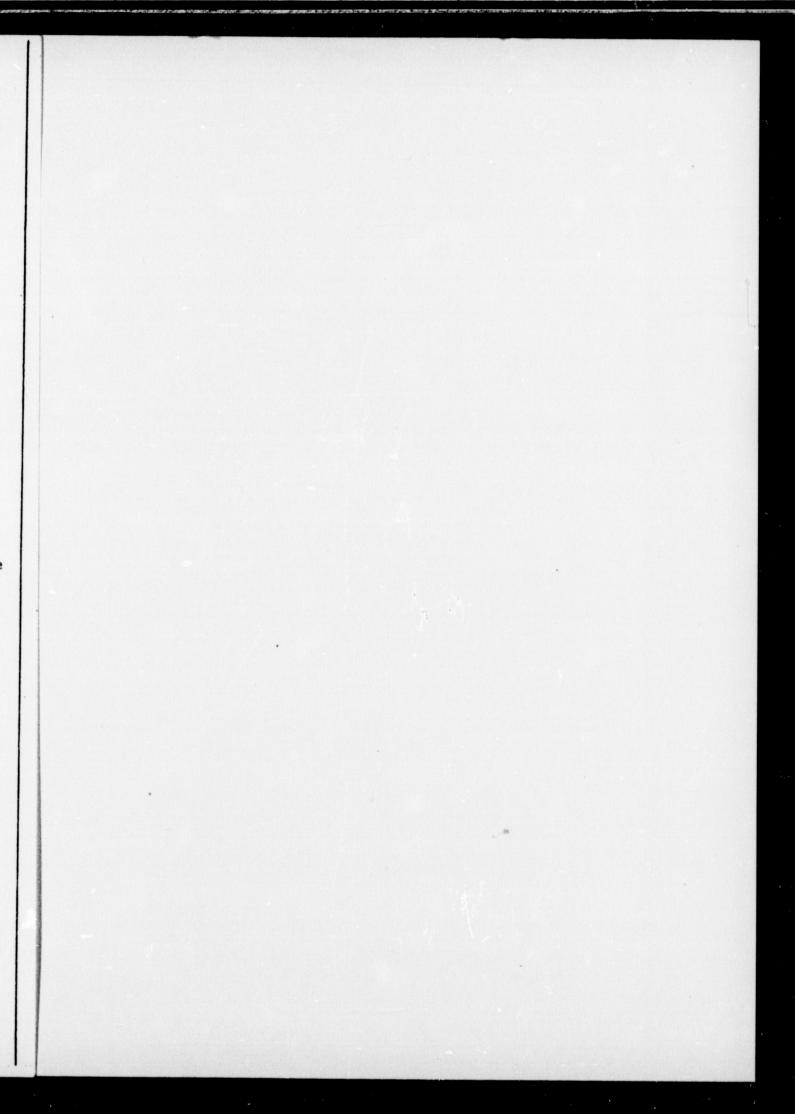
it any more.

"O Do you recollect, Mr. Stasi, being interviewed on July 10, 1973, and one of the police officers saying to you about Mr. Inglese," and this is what the police officer said, "'He came up with a lot of bread, right?'"

Then Stasi responds, "He must have, not that I know about how much money he used to have or how much money he used to make."

Then the police officer says to him, "You don't know?"

Stasi says, "No."



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The police officer says, "Didn't you tell me you used to be down in his basement with him counting it?"

Do you hear the words "you used to be down in his basement with him counting it"?

Did you see Frank Stasi on the stand?
"I use to go to Louis Inglese's basement to count money."

But do you know what Stasi said when the police officer said that to him? "Oh, no, you said he had a lot of money, you told me. I don't know."

Those are Stasi's words. Do you understand what happened? The police officer sits there and says to him, "Frank, did you ever see Inglese counting any large amounts of money?"

That's one of these subtle leading questions designed to tell the witness what it is you want to hear.

But Stasi is a little blunt, see, he doesn't get the point.

The only unfortunate thing for the police and Stasi is it was recorded. That piece of testimony was born that moment. It didn't happen. He wasn't in Louis Inglese's basement. He didn't see any bags of money. It was born when the police officer told him, "Frank, didn't you tell me you were down the basement and saw him counting money?"

Is there a reason in the world why at that moment

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in time if that were the truth Frank Stasi would have said, "No, you told me that"? The fool, the boob missed his cue.

Now, I cannot show you how every piece of testimony was born, but I can show you a few things, ladies and gentlemen, enough to give you reasonable doubt. And if you don't have reasonable doubt about the word of Frank Stasi now, let me just give you one more example.

Judge Duffy says to me, "Mrs. Rosner, call your next witness.

"Your Honor, I call Frank Stasi."

Frank testifies that on such-and-such a night

Louis Inglese was with him and couldn't possibly have robbed

the bubble gum machine from the candystore down the block.

He's an alibi witness for me. And on cross-examination

they have a tape recording of me saying to Stasi, "Frank,

weren't you with Louis Inglese and such-and-such a night

25 miles from the candystore?"

And he says, "Oh, is that what you want me to say?"

You want to know something, they wouldn't even cross-examine him. And the next day I would be indicted for suborning perjury. That is how much credit that witness would get if I called him.

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You see, there is a subtleprocess at work here and it is called all men are not created equal. Do you know that story? It's called when the government calls a witness, they are cloaked with the American flag, they have abandoned their criminal ways and they have come to do justice and that is why you are supposed to believe them the scum that they are is left outside. When the government calls them, they are credible, worthy individuals, but if a defendant would dare to call such human garbage, we would all be in jail, me and my client.

But that's not the way. And only you ladies and gentlemen can prevent that kind of inequality. The government doesn't stand any taller in this courtroom or look any handsomer than Louis Inglese, and if a witness isn't good enough for me, it's not good enough for them.

Just in case you forgot some of Frank Stasi's other bon mots while he was being interviewed, don't forget the one about, "Listen, Frank, just get it through your head, if you don't want to lie we are not wasting our time with you."

Do you hear what I am saying? A police office actually said this to the man on tape. And the government has the effrontery to bring him into court. Do you knowwhy?

Do you know why? Because they figure all you have to do

is say, "Drugs, drugs," and you are not going to listen, you are going to stop reasoning and buy whatever it is they are dishing out. Don't do it.

If you think you are tired, you don't know how I feel right now.

Let me leave Frank Stasi for a moment and go to John Barnaba.

With John Barnaba we didn't have the ammunition that we had with Stasi. There was only one interview recorded with Barnaba. I can't show you the things I have been able to show you with Stasi. I can't show you the recorded lie-making. But you have to understandit is the same process, we just don't have the materials. I't not my fault. He wasn't my witness and I didn't create him. But there are things that you can look to, ladies and gentlemen, which point to the same reasonable doubt with respect to Barnaba's testimony.

Remember on cross-examination Barnaba described the night that he was arrested, and I went into gory detail with him because I wanted to make a point.

When he was arrested, he knew it was the end of the road, three-time loser. Let me tell you something, three-time narcotics offenders are not well looked upon by courts. He really knew the rest of his life

was on the line.

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I want you to picture a tube of toothpaste and a nice strong hand on it and you give it a squeeze with the

top off, everything comes out. And that's what he did that night.

Remember, he told us he didn't even ask Rogers what they had him there for. That may really have happened, but he was so terrified he knew so certainly in his mind and heart that they had him that he just gave up everything.

What did he say on that night?

He said he dealt in 1972, I think it was some 18 pounds or something, he described his deals; he said he dealt in 1971, I forget exactly how much, but also a very sizable amount; he confessed his life away time and time again. But in the same breath, in the same breath he denied ever dealing in narcotics in 1970.

Now, what artifice, what reason, what excuse can there be to cover up that statement? None. When he said that, he was telling the truth. That's when he is arrested, November, 1972.

By May, 1973, before a New York State grand jury, when asked, "Did you ever have a narcotics transaction with Louis Inglese," he says yes. He is asked specifically,

"How many times?" He says twice.

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Now, bring yourself to that moment in time before the grand jury. Make yourself the witness under oath and assume that you really had had eight narcotic transactions or seven narcotic transactions with Louis Inglese. Is there any way in the world that the number 2 would come out of your mouth? No. No way. No way.

And by the time he got into court, that tiny little poisoned seed from nothing in 1970 to two times in May became a full-blown bouquet of transactions. It was up to eight. And if he had sat another six months, he would have been the French Connection.

Need I really say more? Can you understand what went on?

Now, I don't have the investigative tools, the money, the resources, the power of the government to go back and take apart John Barnaba's life, but I would not be a whit surprised if in 1971, 1972, 1973 he had gone to the Beach Rose Social Club, but not to see Gigi, to see Stasi.

And I'll tell you why I say that:

When Barnaba began cooperating with the government, where did he go? Who did he go to set up? Not Gigi, he went to Stasi and he arranged for the purchase of two pounds of heroin from Stasi, not Gigi, in 1973. Doesn't

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that say something to you about where his connection was?

It wasn't Gigi, it was Stasi.

Where did Stasi go for the goods that he sold to Barnaba? Not to Gigi, to Toucoian.

Now, if you think Stasi is an idiot or a stupid man, let me bring you back to one moment during cross-examination. I asked Stasi where he had gotten the narcotics that he sold to Casella and Barnaba and he said to me Toutoian. And I asked him, "And Toutoianwent to you, did he not, because he knew you were a junk dealer?"

And smart as a fox, the minute you give him an opening, he comes back at me and he says, "No, he came to me because he knew I worked with Gigi."

Do you know how much tripe that is? You don't go to the lackey, you don't go to the go-for, the mixer, you go to the man, and Stasi was the man.

The point is well made, when Barnaba started cooperating and went out to get goods, he didn't get them from Gigi, he got them from Stasi, and Stasi didn't get them from Gigi, he got them from Toutoian. Reasonable doubt, ladies and gentlemen? If that isn't, you tell me what is.

And in case you have forgotten in the way of bon mots what Mr. Barnaba is capable of, just think to your-

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selves when you are in the juryroom, "What do you want me to say, Rogers? Feed it to me."

The effrontery of it all, it really kills me.

But I have been in this business long enough to be jaded

to a certain extent. You know something, it doesn't even

shock me any more. But it should shock you.

Let us talk about Mr. Barnaba's tape.

This is, as Mr.Fisher put it so well yesterday, this is the plate that the ghost ate on. Let me tell you why I say that.

As Ivan pointed out yesterday, one of you jurors listened without the transcript and I would venture to guess that if you heard anything on it it wasn't a whole lot. It certainly wasn't anything damaging.

Now let us look at the totality of the circumstances surrounding the tape, which is, by the way, a legal frame, term that you may not know, but I think it is appropriate to this situation.

When was the tape introduced into evidence?
Was it during the witness's direct examination? For the record, that is no, it was not.

Now think about it. If you are a prosecutor and you have Gigi on tape saying "41, 42, tremendous figures," that goes in on your direct case. As a matter of fact, you don't even put Stasi and Barnaba on because you have got the voice, you have got the goods, you have got him down on tape.

But it didn't come in that way. It came in on redirect when, I submit, the prosecution saw that we really had destroyed Barnaba's credibility. It was a desperation move. They didn't want to use that tape.

Why didn't they want to use it? Because the following analysis can be made of that tape. When a man is cooperating and is sent out with a tape recorder on his body he is in danger. True? True. Because someone might discover it, someone might see what he is up to. So whenever he is sent out he is sent out with what is known as a cover team, and that means a number of policemen go with him, first of all, to make sure that he is not harmed, second of all, to corroborate what happened. In other words, they go to say, "On November 22nd we took Frank Stasi to the Blue Lounge. We parked outside and we saw him go in or we saw him talk to so-and-so on the street." Sometimes they even take pictures to prove that the thing actually happened.

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to the Blue Lounge."

Now, remember that Stasi says that there was a period of time when he was speaking outside the Blue Lounge, so that if a cover team were with him they could say, "I saw him talking to Finnegan." A police officer would get on the stand, Albert Casella would get on the stand and say, "I was there. Don't tell me it's not May 22nd, November 22nd, January 3rd. I was there and I took him

What else is missing? Most frequently when a cooperating individual is sent out wired they were a transmitter and the transmitter is just like a radio broadcast.

I am sure you men understand this better than me, but all I know is they are able to pick up the sound in tape recorders located some distance away. It's a radio mechanism. Now, sometimes they even have as many as four tape recorders at various locations all around, who is in a carhere, who is in a restaurant there, who is sitting 20 feet down the bar from him. They have a number of receivers to be sure that if one tape recorder malfunctions another one picks it up.

In addition, they can do something else. The guy that is sitting in the car with the tape recorder monitors the conversation, and that means that whatever is

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on that tape a human being hears at the same time it's actually being broadcast, and if there is any question about what is on the tape that human being comes into court and says, "I am a police officer and I was sitting in a car the night of November 22nd and I heard and I saw."

And that's how it's done.

Now, I submit to you, ladies and gentlemen, the fact that that wasn't done here is only half the clue as to why this tape is nothing more than the plate that the ghost ate on. On that tape does he ever mention Gigi's name? No. He doesn't say to him, "Hey, Gigi, how you doing," so that there is no question about who he is speaking to. It's not done. I don't know where it came from, I don't know what it says. But I will tell you something else. No police officer took this stand and said, "I listened to that and I made that transcript."

You know who made the transcript? Barnaba.

That tape is uncorroborated Barnaba. I don't know who is speaking and neither do you. I don't know when and where it was made and neither do you.

If you use your common sense, and you have heard enough about how narcotics investigations are conducted, you know that something is fishy with that tape, and I submit to you, ladies and gentlemen, if it were any other

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way that tape would have been the first item of proof, and it wasn't.

Now, there is one other witness that deserves some passing comment, and I am not going to give it more than that. The prosecution opened up with Primrose Cadman. I don't like attacking female witnesses. I really don't. It doesn't sit easily in my mouth to go at another woman.

Suffice it to say, ladies and gentlemen, a man took the stand who has absolutely no motive to lie. Let me tell you something, and you think about this carefully. If someone called you to be a witness for the defense in a federal prosecution, in a narcotics case, you think you would be quick to do it? Not if you have an iota of brains in your head, you wouldn't, because we don't have the power or the authority to protect people that testify for the defense and you are bucking the almight Federal Government.

That man came into court, a simple, honest human being, and he told you what he remembered, and what he remembered contradicted Primrose Cadman in so many ways that it shows you people that the girl is a farbicator.

Now, I couldn't get out of her why she jumped bail, fled prosecution, and yet came back here voluntarily

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and hasn't gone to court in a year. There was no good explanation. But I will tell you something. I wasn't going to ask her that open-ended question, why, because I am sure there was some lovely surprise package prepared for me that I wasn't about to open.

But it doesn't ring true. You don't jump bail, run away, and then come back to do your civic duty. It just doesn't ring true. There is something going on there I am sorry I couldn't bring it out for you. I really am. But sometimes the most skilled cross-examiner can't really get all the pieces out. Not that I am. Don't getme wrong. But sometimes there are things you just can't get at, that you have to use your good common sense and say to yourself a person doesn't jump bail and run away to come back voluntarily, to want to pay her own way, and then she doesn't go to court for a year. Something is up with Miss Cadman.

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But more than that. She was lying about 2 3 how many times she went there. She was lying about who she sold to. She was lying about the kind of money she got. She was lying about something else, which was shown in her own testimony. But again, you have to know something more about narcotics, which I wasn't 8 able to establish. She testified that in return for 9 this supposed \$300 worth of clothes she got a spoon 10 of heroin. I asked her how many bags were in a spoon. 11 She said 30. Was it 30? Somehow or another the 12 mathematics came out to about \$150 or \$300. She made 13 the mathematics come out, 30 spoons, and she said that each 14 bag was a \$2 bag. She called it a deuce bag. Well, 15 maybe you have to know something about narcotics, but there 16 is no such thing as a \$2 bag. There are nickel bags, 17 \$5 bags. But she had to change the number to make 18 the mathematics work out. Otherwise it was ludicrous 19 for her to be getting that much narcotics in return for 20 stolen clothing. But that is exactly what it is. The 21 story is ludicrous.

Now, Mr. Curran's cross examination was designed to show you that he really wasn't in a position, that Zimbardo wasn't in a position to know if somebody really slipped her a tin foil package. He wasn't an omnipresent

living room or a television camera in a place of business. He didn't have that kind of power of perception, that is true. But he knew enough and told you the truth about enough things to contradict her in so many details that you must question and have doubt about the rest of her story. So if that was the point of Mr. Curran's cross examination I submit, ladies and gentlemen, it proves nothing, because if she was lying about that you have no assurance that she was telling the truth about the other thing.

And you know this. Mr. Zimbardo told you that no one had access to the kitchen. These people didn't own the place. They went there to drink. You don't stash narcotics in somebody else's kitchen. That's nonsense.

That's why I say to you I really don't intend to dwell too much on Primrose Cadman, because the fabric, why she is here, I don't know. But if you take an objective look at her testimony it is tripe.

At the end of every summation I always say to myself why didn't you put everything in terms of reasonable doubt, why didn't you make the jury unverstand the concept of reasonable doubt. You know, you go to

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law school for three years to learn all these wonderful concepts and the poor jury gets a charge for an
hour, maybe an hour and a half, and it is supposed to make
you lawyers. Well, maybe you are a lot quicker than
I was, but I don't really thing you can appreciate the
concepts that easily.

What can I tell you except that this man's very life is on the line. We are not playing for nickels and dimes, ladies and gentlemen. Can I tell you more than that? If you are so certain, if you are so convinced, that you can make the rest of his life go away, then you are really convinced. But if you are not, if you have a doubt in your minds, then you come in and say not guilty. Because you know what not guilty means? It means reasonable doubt. The forelady might just as well stand up and say, "Your Honor, as to the defendant Louis Inglese, we have a reasonable doubt."

I want to say one other thing. You ladies and gentlemen have been thanked by just about every lawyer that stood up here for your patience and your attentiveness, and that is all well and good, but I am not going to thank you, because the worst part of your job and the hardest part is yet to come. If you go back

into that jury room and start worrying about the jobs and families and troubles you have left behind you have disgraced yourselves. I know those are strong words, but I mean them. You are toying with human beings here. You have it in your powers to do the right thing or the wrong thing. So don't go in there and start worrying about Monday morning. You wouldn't want it done with your life or the life of anyone dear to you.

There is one other thing. In your own individual lives maybe some of you are very important people in terms of the jobs you hold, the money you make, the people you are over, you may be unequal on the outside world in that sense, but in that jury room, ladies and gentlemen, every one of you has an equal voice, every one of you people are equal in there. If any one of you people has in his heart a true and well-reasoned reasonable doubt don't you give it up, not because the guy next to you is smarter, not because the guy next to you is a bank president and you are not, because in the jury room all men are equal.

Now, I am not saying don't reason. Analyze, sit down and talk with each other and listen to each other's views, respectfully and with an eye to agreeing.

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But if in your heart you have a doubt don't you give it up, because Gigi is entitled to a jury of 12, not 11, not 10, a jury of 12. He picked you 12 and it is the voice of every one of you 12 people that I want to judge him.

Thank you.

THE COURT: Mr. Marshal, will you take the jury out, please.

(The jury left the courtroom.)

THE COURT: Let's take 10.

(Recess.)

SOUTHERN DISTRICT COURT REPORTERS, U.S. COURTHOUSE FOLEY SQUARE, NEW YORK, N.Y. CO 7-4580

(In open court; jury present.)

THE COURT: All right, Mr. Siegal.

MR. SIEGAL: May it please the court, members of the defense, members for the prosecution, Madam Forelady, ladies and gentlemen:

Let us not waste any time in this case. I am not even going to reintroduce myself. Although I introduced myself to you eight weeks ago, I have nothing to talk about.

Let us take a good hard look, fast, at the evidence that was bought and paid for against Mr. Tramunti.

Never in my born days have I ever heard or been asked to defend against testimony which, as conceded by Mr. Stasi, was bought and paid for and edited, and here we are in this day and age trying a case on a most seriou charge, conspiracy to violate the narcotics laws. And what have we got facing us? Testimony of a witness that was bought for and paid for and edited.

We certainly arrived at some stage in our administration of justice if that is the way to circumvent what I learned in law school was the burden on the prosecution, and that was to prove a case beyond a reasonable doubt.

Now we have to face this kind

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of evidence. No wonder, no wonder for eight weeks
the chairman of the board, as Mr. Phillips called him,
and myself were hiding in the corner because we had nothing
to meet. There was no evidence here, nothing at all.

Ladies and gentlemen, let me say something to you right at the outset with respect to the very essential, very important, the only piece of testimony that they have a right to point to, and that is the conversation at Lo Piccolo.

I say to you, ladies and gentlemen, that the record will bear me out that that conversation never took place, and I say the record would also bear me out that that so-called conversation at the jail between Stasi and Inglese never took place. And why do I say that?

Just look at this. Here is Stasi caught in a web by his own doing, of course, coming out of a house at Williamsbridge Road with all of those exhibits that you see there, those utensils and the mannite and everything else, arrested on May 22, 1973, caught with his pants down, so to speak, brought to the narcotic headquarters, the state narcotic headquarters, I think they call it, up the street here somewheres, and there they start to question him.

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Questioning would be fine, but they not only question him, but they threaten him, they tell him that they have the power to see that he spends the rest of his life in jail, they tell him that he will never see daylight, if at all, until the year 2000. They tell him, however, "We have the power to let you go out tonight, May 22, 1973, and you can walk out of here free as a bird. And if you want to, and if that is the way you want it, you can take that box of mannite and the mixing equipment and take it with you."

This is the power that they have and they say to him, and you have heard it here dozens of times throughout this trial and in the summations, and they danged in front of him, after they made the threats, they dangle in front of him freedom, the key to the door, a pot of gold and airline tickets.

You know, we never developed, and nobody ever developed, what that pot of gold really was. How much money was in that pot of gold that was promised this witness for giving the kind of testimony that they wanted? And why do they say they want it? Stasi says so. Stasi said the authorities told him they wanted to get Tramunti.

Is there any question about the record?

anybody deny that that is in the record? They wanted to get Tramunti.

And so they dangle a pot of gold, they dangle freedom from perhaps jails for the rest of his life, airline tickets, and whatever other goodies the record discloses. And what do they want in return? They want a story. And my_dear friend Mr. Stasi, caught there, starts to think, "How am I going to get a hold of that key? How am I going to leave here tonight? How am I going to leave here tonight? How am I going to leave here tonight? How am I going to do?"

So he starts to play around with them a little bit to see how serious they really were. Even he couldn't believe the premises that they made him and he said, "Wait a minute. How sure am I that I can walk out of here?"

And they said to him, "What do you mean how sure? Do you know who you are talking to? I'm Mr. Big, I'm in control of these cases. I can do whatever I want. And if I say you go out, you go out."

Now, in the face of that, what was Mr. Stasi going to do?

A lot of my friends here have criticized Mr.

Stasi and called him every name under the sun. I might

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agree. But I also can appreciate his position.

How many of us, under similar circumstances could have withstood the threats on the one hand and the showing of the key on the other hand?

And so he starts thinking and they already give him the story, they gave him the story and he got the message, they want Tramunti. They tell him, "You know, policy man, but that's not what we want, we want to get him in this narcotic conspiracy somehow. We want him."

And so he got the message and he is now thinking "What can I say about Tramunti?"

You know the testimony. I will read it to you a little while later. Stasi said so right from this stand, not in any place where he was in fear, as he tried to explain it away, but that is a lot of hogwash, right in this witness room, right here. What did he say? "I never discussed narcotics with Tramunti, Tramunti never discussed narcotics with me. I never did anything for him with respect to narcotics, and he never asked me to do anything and I never heard him talk about narcotics."

So where is Mr. Stasi? He is in a spot.

But he knows they want Mr. Tramunti. He is not going

about some narcotics," because he knew even they, the prosecution, even they, the narcotic agents, wouldn't believe it. So he devises a story. And what is the story? "On the way to the toilet one day at the Lo Piccolo I overheard a conversation, "overheard. He didn't hear a word before it, he doesn't know how long the conversation went on, he doesn't know what the conversation is all about, but he overheard a conversation and what was said in that overheard conversation.

Let us think of it. I want to read you the exact words.

"Gigi Inglese told Carmine Tramunti, 'I'm going to get some goods. I expect some money. I need some money."

. This is his testimony here in this courtroom.

Do you remember it?

"I expect some money and I need some money."

What do you mean? You expect some money

from whom?

If I say to you I expect some money and I need some money, that means I expect money and I want to borrow some money until I get that money. That is clear.

But over there in that room, he hadn't gotten that far, over there he said he overheard that Gigi said to Trumunti, "I expect something," the word "something" and "I need some money."

He gives them this and he figures, well, this is good, I finally got a story. If anything should come of it, if I'm cross-examined or something somewhere, I may be able to say I misunderstood it, because after all this was only a conversation I overheard, not any conversation that he was a part of. And so he gives him this conversation that Gigi said, "I expect something."

Now, these distinguished gentlemen, having dangled the key and the money and the airline tickets and everything else, say, "Wait a minute now. If we are going to pay for this" -- this is what they say, in effect -- "we don't want the word 'something.'" And I am going to show it to you how they suggest it to him. "We want you to say 'goods.' Goods is a word we can use."

Why? Because then they can put somebody on the stand or even qualify Mr. Stasi and Mr. Stasi will say that "goods" to a narcotic peddler means narcotics.

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That may be true and it may be true to anybody in that business. But when Stasi himself told the authorities that he never talked about narcotics to Tramunti and Tramunti never talked narcotics to him and Tramunti never used the word "goods" to mean narcotics, what does the word "goods" in this conversation mean? What difference does it make what it means to Stasi? What difference does it make what it means to Gigi or anybody else? The question is, what did it mean to Tramunti if he never used the word, if he never discussed narcotics, if narcotics was never discussed with him? What was the meaning of the word to him "goods"? Nothing.

Then that silly answer that he was supposed to have given. What was the answer? He said nothing, because Stasi wouldn't take a chance. Again, he wouldn't be believed that Tramunti would say something, answer him. So what does he say? Nothing. At these debriefings he said nothing.

But after, after they got ready to come here to trial, what did they do? They added a little piece to it. They said he said nothing. However, he nodded his head and he shook his hands or something. What does that mean? What does it mean if you go like this (indicating)? It could mean any one of a million different things.

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 "I don't know what you are talking about. Talk to me some other time. What is it you mean?"

It could mean anything. But it certainly is not proof beyond a reasonable doubt that he knew what they were talking about, and certainly not proof beyond a reasonable doubt by that gesture that he joined a conspiracy and became a party to it. Of course not. And the only evidence in this case is this Lo Piccolo conversation. There isn't any other.

The other is hearsay and the other is hogwash and the other is window dressing, because they have to have window dressing in every case, especially where they start off with nothing.

Let me go through just a couple of pages. I know you are tired and I am tired and we are all tired, but it will only take me a couple of seconds.

"Did they tell you that the authorities wanted to get Carmine Tramunti?

"They did."

I wanted to make sure that you heard it, that you didn't forget it, that I wasn't talking from the top of my head.

Let us talk about how they very cleverly, cleverly suggest the use of the word "goods" for narcotics.

Question on page 540, "Did you say, 'Joe, if I heard all these things, like I say, I know that's what this is concentrating on and I know that would help a lot, I would tell you.'

"Did you make that answer to the question?
"Yes, I did."

What does it mean? They are now suggesting to him to change the word "something" to the word "goods" so they can come into a jury like yourself and say, "Look what he said, he used the word 'goods,' and, after all, if you are paying for the testimony, you might as well edit it. You might as well if you are going to pay, and they paid very highly.

And the next question, "Were you asked this question and did you make this answer:"

Listen to this what they say to him.

"You may have heard something, you never know."

What do you mean, you never know? He is the one that is supposed to know. He is the one that is supposed to have overheard the conversation. What do you mean, "You may have heard something, you never know"? Isn't that beautiful. "You may have heard something, you never know."

Tell us something you never heard. Just give us something.

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"Like, again," says Stasi, "Couldn't I lie about it and say yes, I heard him talk about junk, where he got it from? Don't I know that would help a lot? Or do you want me to say something that I didn't hear?"

Did you make that answer to the question?

And the answer is, "I did."

Then the next, "No, no, and you said, 'Joe, so could I express it that way then? If I didn't hear it, I didn't hear it.'"

But that wasn't enough for these people. They didn't care whether he heard anything, what they wanted wa a witness to walk into this courtroom and say, "This is what I heard, I heard Gigi say to mramunti, 'I expect some good and with that leverage that they had, freedom, pot of gold airline tickets and everything else, they had it, and you they had it. You know they overcome him. You know they finally got him to see the light, because if he didn't come through with the word "goods" he would never get the key to the door, and he realized that, he came through and he came in here and testified.

And his explanation for his earlier testimony was that he was afraid. Afraid of who? He was in custody from May 22nd. They had him in custody. They had him in protective custody. They were watching every move-

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ment he ever made. What are they talking about, he wasn't here? This is nonsense.

You remember how he tried to deny the promises that they made him and the voice said, "'A nice relaxing month or so here with us for company, keeping good, maybe no broads, but you,' do you remember that, and you said, 'All right, I don't care.'

"Do you remember that?

And after he denied time and time again about the pot of gold, and I asked him this question;

"And do you remember this, 'second,' a pot of gold and an airplane ticket, where you want to go, and a new identity, and you'll be as safe as if you were in your mother's arms,' and you said, 'Yes.'?

"I did."

So we know the promises were made. There is no question about the promises were made because none of the distinguished gentlemen from the office up the street the State authorities, who made the promises, came down here to deny that they made the promises, not one of them.

So you can take it that when Stasi was on that stand and he gave that beautiful little sentence -- that's all he had to testify -- he was well paid, because those promises were

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going to be kept.

But I am going to say something else, if those promises are kept for what he gave them, I want to tell you something, they have been had. And if those promises are kept and he is permitted to walk the streets and he is given a pot of gold, then I say we should make a very serious inquiry into whom the nickname of Boo-Boo belongs to.

I think it has to be transferred, because somebody has been had here.

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Listen to this. I don't know. I must have gone to the wrong school, or maybe they have new schools today. But just listen to this.

"Q And just a little later the officers said to you, 'This is why we're going over and over and over and over, you're going to have the truth memorized to a point where you'll be -- you know, you'll just know what you did.'"

You mean he has to have it memorized to know what he did? Who is going to tell him what he did if he can't tell himself? The narcotic agents? They are going to supply him with the facts?

And that's what they are doing. They wrote the script, they gave him the script. And here it says, "Be a good boy and memorize it and you will get the key to the dor."

I don't know. Is this now the way they prove a case beyond a reasonable doubt? Is that what they call a reasonable doubt? Or is it now proof beyond a reasonable amount? What is it? Just what is it?

You buy testimony and you walk in here and you put the witness on the stand and you put a man in jeopardy? For what, spitting on the sidewalk? No. They want to convict him of the crime of conspiracy to import and dis-

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tribute narcotics, one of the worst crimes anybody could be accused of.

And how do they expect to get away with it? Easy. They think they are going to find twelve jurors in this enlightened day in the City of New York that are going to substitute prejudice for evidence, and they think they are going to get by. But no jury, no jury in New York, and especially not a jury who has volunteered, as you have, to stay away from your family, your loved ones and your work and your associates for eight weeks, you are not going to le that go down the drain and allow an injustice like this to happen. They better learn that. They better learn there are still twelve and eighteen jurors in the City of New York who are not going to stand for it, but are going to volunteer their services to see that no such injustice occurs.

Now let's talk a little bit about the window dressing. Let me first talk about why I said to you that the testimony shows that the Lo Piccolo conversation never took place at all.

In giving his story, which they call debriefing, when he told them about the conversation, of course, some-body had to ask him, "When did this happen," and he is thinking and thinking and the only thing he could think of

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quick was that on February 12th he was invited by somebody to go to the Bon Soir to listen to Buddy Rich. So he said, "About a week before."

Later on he tells Lieutenant, I think it is, Whelan, Officer Whelan, Detective Whelan -- I con't remember -- it happened the beginning of February of 1973, this conversation at the Lo Piccolo. So now we have two dates.

Then somebody must have said, "Hold it, hold everything. What are you talking about? How did this thing happen in the month of February? You mean you overheard Inglese talking to Tramunti in the month of February? Don't you know that could never happen? Inglese was in jail on some traffic violation of some sort."

So it couldn't happen. So now what happens?

He has to earn his way out. He is not dead yet. His

mind is still working. So he says, "Oh, no. The time I

went to the toilet and overheard that conversation was after

Gigi got out."

Well, we all know Gigi got out after April 24, 1973. Well, why isn't that story any good? It's no good. Why? Because he has already committed himself to the authorities when he told them that at the Bon Soir when

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he got there and sat at his hosts table Carmine Tramunti was there and Carmine said to him -- listen to this -- Camrine said to him or, rather, he said to Carmine, "You know, I am going to visit Gigi in jail," and Carmine said, "Yes, I miss that fat fellow, it's not going right at the club."

What does that mean? They have a card game, and a very big card game, where they have an interest, and so he says, "I miss the fat guy." What is wrong about the I have heard people say that about me, but not very often.

But what happens here? Why didn't it happen?
Why didn't this conversation happen? I am going to tell
you.

At the Lo Piccollo he gives a fourth date now.

He must have given the date, because here I am just an attorney knowing nothing of the facts and I am supplied with a bill of particulars and, lo and behold, over the signature of the United States Attorney the bill of particulars as says this conversation took place on January 14th or 15th at 2 o'clock, really specific this time. So now we have four dates.

And yet when Mr. Stasi comes into the courtroom up there on the stand he doesn't adopt the date of January 14th or 15th, not at all. And when I ask him,

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"Didn't you say to Whelan that this happened in the beginning of February," the answer was "Yes.

So now we have a man who made four trips to the toilet in the Lo Piccolo to overhear one conversation.

My friend Stasi must have had diarrhea or diarrhea of the mouth. Four times, four times to overhear this one conversation. And they say it took place.

Well, I will tell you another reason it didn't take place. Stasi told you, and I am sure you recall, that the cops told him when he was arrested that he was under a tail for a year and a half or two years, and you heard those three police officers or narcotic agents tell you here that they tailed him to the Bon Soir. Well, if they tailed him to the Bon Soir on February 12th how come they didn't tail him to the Lo Piccolo only a week or two before?

Therefore, I say to you that the evidence is clear that this conversation at Lo Piccolo never took place. It was merely, merely a story concocted by Stasi in order to get that key to walk the streets.

And now let's talk about the visit, the visit that he is supposed to have made to a jail.

First of all, he says that at the Bon Soir table when he was talking to Tramunti and said he was going to

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visit the fat guy, Tramunti said, "Ask him about the money he asked me about."

Just think of this. You remember Stasi's test
mony? Stasi's testimony is that when he approached
Gigi and Tramunti near that toilet and overheard the conversation they both stopped. They didn't want him to over
hear anything. And now within the space of a week or
two we got Tramunti now asking him to ask Gigi whether or
not he wants that money. Another piece of window dressing
to get the key to get out that door. You know that an
examination and a careful analysis of the testimony has
to disclose to you that there never was a conversation at
the Lo Piccolo, there was no conversation at the jail.

Let's talk about the jail for a second. If he was under a tail how come no Federal agent, State or City or anybody, whoever they are, took the stand and said, "Oh, yes, oh, yes, he went to the jail. I was right behind him. Here is my report. I was there." No, no tail, no nothing

Why? Because he didn't get to a jail.

I don't know how much experience you people have, but I think it's common knowledge in the City of New York that it's harder to get into a jail than to get out. When you go into a jail you have got to sign your life away. You have to put your name, your address, your

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relationship and who you want to see.

And of course, my esteemed friend here is going to say, "If you are talking about the records over at the jail, you had a right to send for them."

Oh, I had a right to do a lot of things. But my right in this case was to stand on the presumption of innocence and say to the United States Attorney, "We say we haven't done anything, you go ahead and prove he is guilty, and that means not only that we did the act, but also see if you have any corroborating testimony. Produce it."

Did you hear it? No. So I say again the evidence shows no Lo Piccolo and no jail.

Now let's talk about that fiasco at the Bon Soir.

Look at this. All window dressing. It has no effect.

It has nothing to do with this case. But they want to show you. Look at this diagram.

I don't know who drew it. Maybe Mr. Phillips or one of his artists, Paul here drew it. But there is one thing here that you can see. What are they trying to show? They are trying to show that the chairman of the board was such an important man that they put him all the way in a corner so nobody could get near him. That's what they tried to inject; so you should think he is important.

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Where do they put him? Look where they put him. Here is a small local Bronx nightclub, the Bon Soir, probably had about two hundred people. I think the cops testified that it was overcrowded or something. If they had two hundred people haven't we a right to assume that perhaps a hundred of them were men?

Look where they put him. If you wanted to go to the men's room one hundred people there had to parade past his table. That's how important he was. And I would like to know whether or not the maitre d' got an extra tip for that. This is ridiculous.

Then the next thing. They say to you there was a man standing there in front of Tramunti. But in front of Tramunti means about a step down, because he was on an elevated part, and he was standing there in front of Tramunti.

What were they insinuating? They were insinuating that he had a bodyguard. Just listen to that.

Anybody that ever went to a local nightclub in the Bronx or Manhattan, Queens, I don't care where it is, on a night like this, where they expect a huge crowd because they have Buddy Rich there, don't you think they would need a bouncer or two to keep that traffic going in and out of that toilet? Otherwise they would be so congested over

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there in front of that table that nobody could see what was going on at the band place, nobody could see anything.

They had to have a bouncer or two. Every nightclub has.

But they tried to insinuate something very, very strange was happening here.

Then the other piece, another piece here,
a beautiful piece. These police officers on this night,
overcrowded place, trying to tell you that Tramunti was
hidden away in the corner secluded from everybody. Here
they come into the nightclub without any women, without any
women, and they are able to get a table right next to
Tramunti. You could imagine where he was in left field
if they are allowed to sit and they are able to sit right
next to him.

Then the next thing we hear, another piece of window dressing, Stasi was sitting next to Tramunti, talking in his ear, Tramunti was talking in Desi's ear for five hours, for five hours. What Stasi told you that he said to Tramunti and what Tramunti said to him would take about two and a half seconds, not five hours.

And then the police officer miscued and said,
"You know, we sent out for pictures. We got a cameraman.
We took pictures."

So very stupidly I just turned around and said,

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"Let me see it."

"What do you mean, let you see it? The camera malfunctioned."

pictures? Do you believe the camera malfunctioned?

Do you? Or do you believe that these police officers with police equipment had some very fine equipment there and they did take pictures and maybe, maybe Stasi wasn't sitting next to Tramunti, maybe Stasi perhaps was sitting next to his host. Wouldn't that be more ligical?

I don't care if Stasi was sitting in Tramunti's lap and I don't care if Tramunti was sitting in Stasi's lap. What does it mean to this case. What are we proving here, a case by association? What are they trying to do, convict people by association?

I wouldn't be a bit surprised before this case is over somebody representing the United States attorney or the prosecution is liable to say, "Look, for eight weeks, all these fellows sitting next to each other, you want any more association than that?"

What do we do, convict people because they are sitting next to each other? What do we do?

A man has what is known as the Lo Piccolo shop
up there somewheres in the Bronx. Tramunti has a
good thing going there. It has to be a good thing if
a man like Stasi can lose \$700 there one night.

Tramunti had a very good thing there. That's why he was
there every day and every night, because he had a real going
gambling business up there. And if they want to lock
him up and indict him for that let them do it, let then
try to do it, let's see what happens. But what has
that got to do with this case?

What they are trying to say, what they are trying to say, is because certain people up in the Bronx

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frequented Lo Piccolo, therefore Tramunti is the partner of the people who frequented the place?

I don't know if you know where the Bronx is, or any part of the Bronx, but if the Lo Piccolo was in any other part of town, next to some Jewish seminary, and some of the Jewish boys came in there to buy expresso coffee -- and it would be a natural, they don't serve milk and cream, so it would be kosher, wouldn't it. -- would you say that because they came into that place these people made Tramunti a rabbi? Is that the way they prove cases here? What are they talking about?

Eight weeks you and I have spent here on this nonsensical testimony and they are going to have the nerve, I say, to get up here and ask you to bring in a verdict of guilty as against Tramunti. Based on what? Based on nothing but the mouth of Stasi, no corroboration, no nothing.

Those boys up the street who prepared Mr.

Stasi dropped this file like a hot potato because up the street they need corroboration. So they fed it to my friends here and they gave them the file and here in this court the cases say you don't need corroboration. You may not need it theoretically and legally, but with any kind of common sense you need it, don't you?

Is anybody on this jury going to take the word of Stasi without one word of corroboration? Not on a chance, not on a bet. And yet they would say that they want you to convict because they have proven a case beyond a reasonable doubt. Well, I don't know what they call reasonable doubt.

Let's talk about something else. If this
was any kind of a real, honest prosecution, if this
was not something merely for the purpose of trying to get
Tramunti, we don't need any Columbo, we don't need that
kind of a detective to figure out what we have to do.
If they had Stasi on May 22, 1973 and they had Barnaba in
November of 1972 why didn't they wire the two of them, or
Stasi, send him up to the Lo Piccolo, engage Tramunti
in conversation and get good, solid evidence? Why?
Why no wire taps in this case if this is such a big
conspiracy, as my friend Mr. Phillips said in the opening, a conspiracy that started in 1969, went to 1970, 1971,
1972, and to December, 1973? Where are the wire
taps?

And if there are no wire taps, why? If there are wire taps, where are they? Why? Because the wire taps didn't disclose Tramunti on them? How is it possible that in all these years of this so-called conspiracy

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How come the Lo Piccolo wasn't bugged?

Why not? Or was it bugged and it showed nothing agains

Tramunti? Look at all the pictures they are supposed

to have here. All kinds of pictures. Where is the

picture of Tramunti?

What's it all about? What is it all about?

Do they really think they can fool a jury this way?

What about all the tailing, the surveil
lance in '69 and '70 and '71 and '72 and '73? What

about it? Where is Tramunti? Nowheres.

The bill of particulars in this case, although Mr. Phillips said this was a conspriacy dating back to 1969, and he was going to show that Mr. Tramunti was the banker, the financier of this operation, he didn't remind you that when he sent me a bill of particulars he said that Mr. Tramunti it is alleged joined the conspiracy in January of '73 with that toilet conversation.

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Did you ever in your life hear of a banker who didn't part with a nickel? Have you any proof here?

I am not talking about proof beyond a reasonable doubt.

I am talking about not \$100 and not \$50. I am talking about a nickel. Where is there any proof in the 5000 or 6000 pages you have here that Tranunti gave a five-cent piece to buy any narcotics? What kind of a banker is this?

Then they got another piece of window dressing, that Lentini nonsense. Lentini, somebody up in the neighbood there, is arrested, and Stasi said he and somebody else wanted to get him out on bail, and they talked to Mr. Tramunti.

"How much is the bail?"

"\$75,000."

"Well, why don't you get him out?"

"Well, we have a question here, we have a problem of collateral."

No, they didn't say to him, "You get him out."

This is a member of your organization. Get him out."

Oh, no. They said, "We have a problem with collateral."

So what did the banker say? "I can't do

anything for you."

Would the banker, would the chairman of the board, say that he couldn't do anything by way of bail if they were talking about a member of his organization, if there is any such organization?

Some more window dressing. We have another little piece.

Judge, if you are getting tired -THE COURT: I am all right.

MR. SIEGAL: We have another little piece of window dressing. They have Stasi here, got it all prettied up. He can't tell dates, he can't tell months he can't tell years. You know why he can't tell dates and why he can't tell years? Because if he did there would be a chance for somebody to prove where he was an alibi. But under this situation there is no way in the world.

If you say you were in a hospital on the 10th he would say it happened on the 9th. If you say you were in Europe on the 1st of July he would say it happened in August. There is no way of protecting yourself.

in your life here of a numbers man who couldn't handle numbers? Isn't it stupid? Here is a numbers man,

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who must know numbers, must be able to remember numbers.

Don't think that a numbers man stands out on the street with a blackboard like that and he is writing out your numbers and he says, "Hi there, Jack, what do you want, a buck and a half?"

"A buck and a half."

"You want 75 cents?"

"Seventy-five cents."

Oh, no. - If you want to play a number you give it to him in his ear and he memorizes the number until he has an opportunity to get to so me nice quiet place and then put them down. Don't let Mr. Stasi kid you about numbers. He is a master of numbers because he is in the numbers game. He wouldn't last two minutes in that business if he couldn't handle numbers.

Now, ladies and gentlemen, I have enough here to talk for three, four hours, but I think I would be insulting your intelligence and everybody else's intelligence to continue any further. Here we have a case where the only testimony against Tramunti comes out of the mouth of Stasi and the mouth of Stasi gives a story for which he has been paid, paid, I say, in no uncertain language.

Are you going to say that such testimony con-

vinces you behond a reasonable doubt that Mr. Tramunti by any words coming out of his mouth, by any actions that he did, by any money that he supplied, joined into this criminal conspiracy, that he joined in this partnership?

Where is the evidence?

After all, when a man is in a business, and if he is not the man that is carrying the narcotics, he is not the man that is buying the narcotics, he is not the man that is mixing the narcotics, he has to have some job. What is it? Furnish the money.

All right, Mr. United States Attorney, when I sit down you point out in this record wherein it says that Mr. Tramunti gave one five-cent piece for the purchase of narcotics and I will be satisfied.

Ladies and gentlemen of the jury, are you convinced beyond a reasonable doubt that Tramunti on the evidence in this case is guilty of joining this criminal conspiracy and that he was a partner in it.

What is this business? '69, '70, '71, '72,
'73, and they give him a toilet overhear at the Lo Piccolo
in '73, and nothing else, nothing else of anything.

What else comes out of his mouth so that you can say by
what he said he joined this business, by what he did he
joined this business?

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Ladies and gentlemen, let me not insult your intelligence any more. Thank you for your attention.

Use your good common sense, the same kind of common sense you use every day outside in your homes and your businesses, and after you have done that, and after you have considered all the evidence in this case, and particularly the lack of evidence, I ask you to bring in a verdict of not guilty. Thank you.

THE COURT: All right, marshal, ladies and gentlemen.

HR. SIEGAL: Thank you, Judge.

(The jury left the courtroom.)

THE COURT: Mr. Siegal, you should know
that I am not going to sleep, but you all may have
noticed that I have leaned back in the chair and avoided
looking at the jury. I have done it for a reason.
I don't want any expression that might go across my
face to interfere with their deliberations or to interfere with your presentation to them. There have been
times when I must say I have looked out a far window
just to avoid that possibility.

All right. It is five minutes to 12.

Nr. Curran, I gather that you will go for maybe two
hours. I suggest that we start at 1:30 instead of trying

jha to do it in little bits and pieces. MR: CURRANI: We are entirely in your Monor's hands. THE COURT: 1:30. Everybody be back here at that time. (Luncheon recess.) .. 13 . 14 . 15

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AFTERNOON SESSION

(1:30 p.m.)

(In open court; jury not present.)

THE COURT: Are you ready, Mr. Curran?

MR. CURPAN: Ready, your Honor.

THE COURT: All right, bring in the jury.

(Jury present.)

THE COURT: This morning, ladies and gentlemen, we finished the defense summations. The prosecution now has the opportunity to sum up and tomorrow morning we are going to start at 9:30, at which point I am going to charge you.

I want to apologize right now. I know my charge is going to be long. The trial has been long, however, and I do want to set out what the rules of law are for you. That will be tomorrow morning.

This afternoon Mr. Curran will sum up.

Mr. Curran, are you ready?

MR. CURRAN: Yes, sir.

May it please the court, counsel for the defendants, Madam Forelady, ladies and gentlemen of the jury:

For the past seven weeks, about, I have been privileged to appear before you on behalf of the

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United States in this case. As your government's representatives, myself, Mr. Phillips, Mr. Fortuin and Mr. Engel have all done our best consistent with the rules of evidence laid down to present to you fully and fairly the evidence in this case.

For the past three and a half days defense countain have made their arguments to you. They have used considerable oratory, considerable rhetoric. They have generated considerable heat, very little light.

There is an old story among lawyers that in a trial, if you have the facts on your side, you pound the facts. If you got the law on your side, you pound the law. And if you have neither, you pound the table.

The defense in this case, ladies and gentlemen, has consisted most substantially of table pounding with very little discussion of the facts and more important and more particularly, the interrelationships of the testimony and the evidence, the whole picture. That is the critical thing in this case and in every case.

Now, a very standard tactic has been employed here and I want to say parenthetically at this point that the reason the government goes first and the government goes last, that is as it should be. The reason is that the government, as you have been reminded time and

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again in the past three and a half days, has the burden of proof. And we accept that burden. That is our responsibility.

The standard tactic that has been employed is a standard one that is used in all cases where evidence of guilt is substantial and, indeed, overwhelming. The tactic is to divert your attention from the issues in the case.

The issue in this case, is whether these defendants, 16 of them lined up around here, are guilty or not guilty as charged in this indictment.

Now, I think it is understandable on the record that the defense would prefer to try some other issues. I would too, were I they. But as I believe his Honor, Judge Duffy, will instruct you, this trial concerns the guilt or innocence of these 16 defendants.

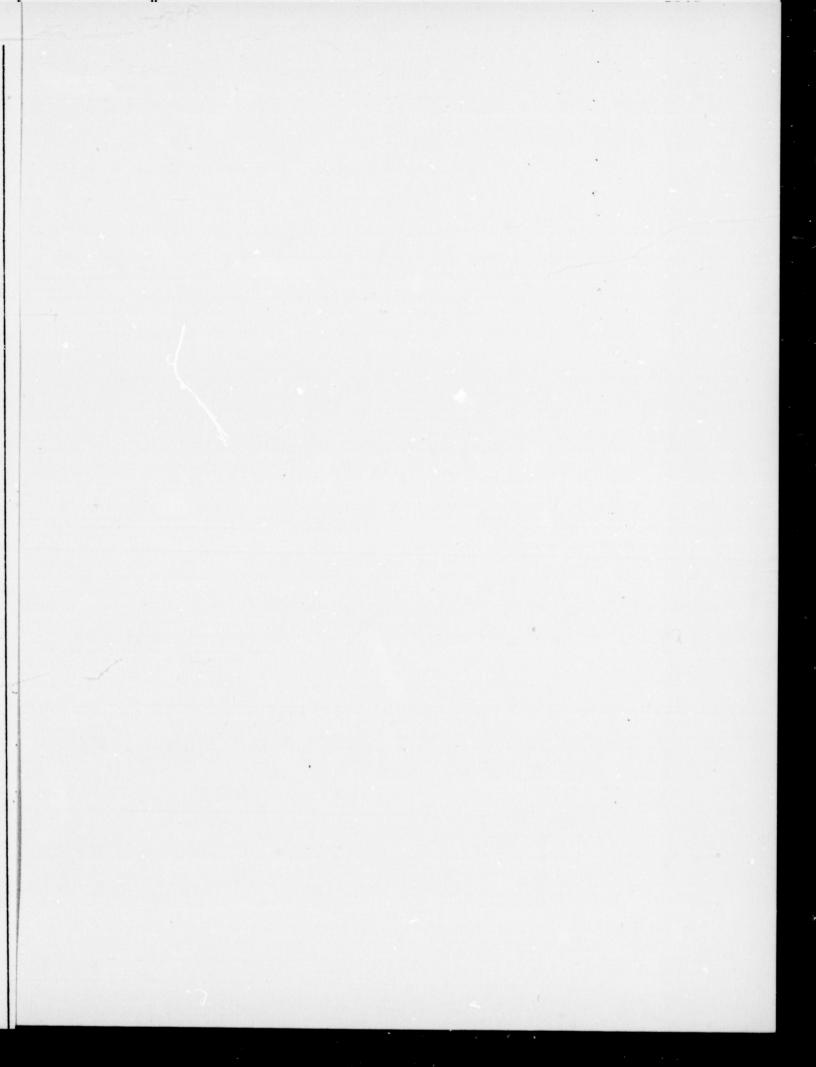
I should say right now I agree fully with the defense counsel, guilt is personal and the government does not suggest, ask, request or anything else that you dragnet, as has been suggested, ferryhoats. That is not what this case is about. It is not about dragnets, it is not about dragnets, it is not about ferryhoats, it is about narcotics, junk, goods, something, anything.

But in deciding this case, we would like you to try us, the government. In fact, we urge you to try us. Try us with a careful review of all the facts that are before you; before you in evidence on the record, in pictures, in documents, on tapes. When you do this we submit you will find that the government and its witnesses have been entirely candid and truthful.

I can't express it enough, ladies and gentlemen,
I am going to do it time and again, it is absolutely
vital, the record, the record, the record. That is what
this case is about. Please don't speculate. You
have been invited to for three and a half days now.
Please stick with the record. Stick with the facts.
That is all we can ask. And if you do that, there is
only one result, and I will come to that later.

Reflect back with me for a minute to the beginning of this case. As I recall it, it was a Friday way back in January some time or toward the end of January. Mr. Phillips outlined to you briefly what the government intended to prove in his opening statement, what we were going to prove to establish the charges in the indictment.

He told you that the evidence would show a large conspiracy among all of these defendants, and others,



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to distribute massive quantities of heroin and cocaine on the street's of New York City and extending as far as Washington, D.C. That is what he told you.

He told you that the evidence would portray the role that each defendant played in this enterprise. He also told you about a number of actual sales of heroin and cocaine which were carried out in furtherance of this illegal agreement.

There has been a good deal of talk here about, oh, conspiracy, a partnership in crime, Dennis, Rosenberg, coverups. The government is not asking you to convict anybody by association. That is absurd. Again, the record, the record. Associating together to sell heroin to sell cocaine, that is what this case is about.

And then selling it on the streets of New York and Washington and other places. That is what this case is about.

If you reflect back to Mr. Phillips' opening, you will remember, I think, he set forth the details and as that evidence has come before you, because it has to come in piece by piece, witness by witness, photograph by photograph, he set forth in every essential detail what we would prove and we proved it. Again, the record, the record.

I want to trace for you and I must trace for you briefly, at least relatively briefly, what the government has proved the evidence in this case is. In doing this, and I am going to say it time and again, I am going to deal with the record that is before you. I have to do that and that is what you are bound to pay attention to. I stress it time and again, because most of what has been said to you during the closing arguments has carefully and skillfully avoided that record, and I can't stress record too much.

If there is a question, call for the testimony.

You have a right to do that. Call for the exhibits.

Please don't speculate, if you are not sure, as to what was said or not said.

Ladies and gentlemen, the proof of this conspiracy and the crimes carried out in furtherance of it -don't forget them, because they haven't been discussed very

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much, if at all -- was direct and powerful. Five witnesses, five witnesses have told you about their own involvement in narcotics, substantial narcotics transactions. We are not talking about \$5 bags, \$2 bags, addicts on the streets. That is not what we are talking about. Those five witnesses were dealing in heavy weight, lots of junk.

And they told you about their own involvement and their involvement with these defendants. You are looking at them. Frank Stasi, John Barnaba, Harry Pannirello, Jimmy Provitera and Thomas Tennessee Dawson.

Now, you know, it is rare, indeed, to be able to penetrate the highest echelons of the narcotic traffic by producing witnesses who are willing andable to testify, producing one witness, two, five. And these witnesses have been produced in this case. They have been put on that stand and they have been subjected to days of cross-examination.

"Did you say this then? What did you say then?"

Very few questions about what happened back in
the street. "What did you tell Rogers? What did you tell
Phillips? How many hours did you spend with Phillips?
Where was Curran? How many hours did you spend with
Fortuin?"

Do you remember the questions? "Are you sure you dealt with Inglese? Are you sure you had these conversations with Tramunti?" Very little of that.

Now, all of these men were accomplices. They were involved. They were the men in the business with these men. And none of them can claim great virtue.

But the sole issue here is whether what they told

you up there, up there, on direct and cross-examination

happened or did not happen. We submit that it happened, that

if you think about the record and the testimony and the questioning and the facts, you will come to the same con-

clusion, we submit.

It has been mentioned by the defendants because they anticipate this statement by the government and they anticipate it because it is accurate and they know we are going to say it, and I am going to say it now.

Ideally, to prove this case, the government would have liked to have called community leaders, clergymen, reputable citizens. It would have been great, wouldn't it, if we had been able to produce witnesses to these transactions, to these dealings, to these people, people like yourselves, Judge Duffy, come in and testify, "I dealt with so-and-so. You know, Frank Rogers arrested me, I-resisted, then I talked, then I told the truth."

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Wouldn't that be great?

Well, you know that is not the real world of the narcotics traffic. That isn't even the real world of crime.

Now, they attempted to belittle the argument, but it can't be belittled. It can't be belittled because it is entirely accurate.

The only witnesses to narcotic transactions at these levels are the people who were involved in the transactions, and don't you kid yourselves about that.

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These witnesses are the people with whom these defendants dealt and they are the only people who can give testimony against these defendants.

The government must take its witnesses where it finds them, ladies and gentlemen, and in narcotics cases it finds its witnesses where narcotics is involved. That's not a difficult notion. It's reasonable, it's accurate, and that's the way things are in the real world of narcotics. Only men like these, the five I mentioned, can penetrate this kind of operation, dealing in kilograms and kilograms of heroin and cocaine and literally hundreds and hundreds and hundreds of thousands of dollars.

You believe for a minute that you or I could give evidence in a case like this? Forget it.

Now, you do have an obligation, and a very earnest obligation, to look at the testimony of those witnesses very, very closely and very, very carefully. No question about that. The government begs you to do that. We implore you to do that.

But when you do that look at the whole picture, please, the record, again. In the light of the corroboration supplied by a very substantial number of other witnesses and documents and photographs, you will find that these five witnesses told it like it was, that they have been

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corroborated and that belief in their testimony is simply inescapable.

Now, the major point and practically the only point urged upon you by defense counsel in their arguments and, indeed, in the examination of the witnesses has been that they lied, they made up their testimony in order to convict these innocent defendants here on trial and thereby get a short stay in jail or perhaps even total freedom.

In short, they lied to save their own skins. That's the argument. I think I have stated it fairly.

And then they argue, as they must from this record, that the witnesses did this at the behest of and at the direction of the United States Attorney's office.

Now, defense counsel, as I said, examined these witnesses for days, literally days on cross-examination, and as I said, you will recall they spent very little time questioning them about the facts in the case and the witnesses' involvement with their clients, the defendants, the ones who are here on trial. Most of the questioning had to do with statements after the fact to law-enforcement officials and other agencies and alleged inconsistencies in the statements.

Now, I think, ladies and gentlemen, your common sense will tell you that you will recall an event in your

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life if it's a significant one with great clarity, as to whether you were at a certain place, but I submit to you that unless it's a date that relates to something very close to you, birthday, something like that, you will not generally recall the specific date on which it occurred nor will you generally recall how many people spoke to you about it afterwards and what you said to them each time.

You recall the event back then, what you did, but then if you were asked about it ten times, fifteen times later would you be able to say if it was two years ago, three years ago, well, I spoke to so-and-so yesterdayand I told him this, that kind of thing. Did he ask you this? No, but you remember the event. Think about that, please.

Now, let's face it. We are willing to face it four-square: Men like Frank Stasi and John Barnaba, they are men who have operated citside the law most of their lives, particularly Barnaba. There is no question about that. They are not the kind of men who volunteer information to law-enforcement agencies, call the police when they are in trouble, freely testify about their activities in narcotics or anything else, and obviously they testified in this case to help themselves. No question about it.

But can they help themselves by committing perjury? Think about that. They cannot. They can only

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harm themselves.

In the beginning, when they were arrested, Stasi and Barnaba -- it's clear, there are no secrets about it -- they attempted to tell the agents, prosecutors, Mr. Rogers' office, the police, as little as possible. Is that unnatural with men like this? Does that surprise you? I submit that it shouldn't.

They tried to find out "What do you know, and then I will tell them what they know, but don't tell them any more." That's the way of that world.

But as the situation unfolded, when it became clear that this wouldn't work, that they had to come clean and they had to make a full breast of things, they did so, and they did it even then with considerable reluctance.

That's the record. That's what is before you.

Frank Stasi, when he is interviewed by Frank
Rogers and the police officers, he didn't immediately
unburden himself, bare all the facts of his involvement
in narcotics and his involvement with these defendants.
It was only after he was questioned very closely and only
after he had tried desperately -- yes, desperately,
desperately -- to conceal his knowledge that, for example,
Stasi told Rogers about his involvement, yes, the leadershi
if you will, of this conspiracy, of the defendant Tramunti.

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And he told you under oath that a reason for that earlier unwillingness to mention the defendant Tramunti was because he was afraid of him. Is that unnatural? It's in the record, page 885 of the transcript. Perfectly natural.

Now, Harry Pannirello and Jimmy Provitera, to take them separately for a moment, they didn't cooperate with the Federal Government, according to the record, the record, until some four or five months after they were arrested, and even though they had been caught redhanded. They did so only after being advised to do so by their lawyer. And that's in the record.

Incidentally, I also believe it's in the record that the lawyer accompanied them to the offices either of the prosecutor or the Drug Enforcement Administration, contrary to what was suggested during one of the summations of defense counsel.

You should also bear in mind -- and this is most important, ladies and gentlemen -- that Dawson, Provitera and Pannirello were caught and were cooperating with the Federal Government, the Drug Enforcement Administration, in connection with the Washington, D.C., the New Jersey, the Bronx situation. Their cooperation on this record -- again, the record -- was wholly separate and apart from

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the activities and the cooperation of Barnaba and Stasi, who, if you recall, were apprehended by State authorities and were being questioned by Mr. Rogers and were cooperating with his office.

I stress this because it's most important to bear that in mind when you look at the total proof in this The record is clear, the record, that the Federal case. effort and the State cooperation that I have mentioned didn't come together until this trial. Thus neither Mr. Rogers and the New York City Police Department on the one hand or the Drug Enforcement Administration on the other hand could have fabricated this case and the testimony of the five witnesses, as has been suggested and argued and The only place it could have been done, according urged. to the record, was in my office. And, ladies and gentlemen, if you believe that that's the way it was, then you should spend no more than one minute in your deliberations and you should acquit all sixteen defendants.

Now, before I turn to a brief statement of what the evidence is in the case in the record I am bound to reply briefly to some of the more outrageous arguments made by defense counsel during the past three and a half days.

A number of defense counsel argued long and loud that this is not the way to convict people of nar-

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cotics violations. This is unfair. Witnesses were produced from inside the operation. Dirty pool. Why can't the government produce shavings from Joe Crow's apartment in New Jersey? Joe Crow isn't on trial. That would have been good evidence. You remember that argument?

One lawyer argued on behalf of the defendant

Russo. The first half of the argument, Barnaba is a liar,
a cheat, a bad man, unworthy of belief, totally incredible.

That was the argument, the first half of the argument.

Second half of the argument. You can't believe Police Officer Casella, that he purchased drugs from Russo. Barnaba wasn't there to corroborate Casella. Think about that one. That was the argument.

Another lawyer said that the police had tapes -it's not in the record; he told you; you find that in the
record; it's not there -- that the police had tapes which
would absolve his client D'Amico, Rizzo, and these tapes
were deliberately withheld from him and his client by the
police.

There is no fact basis for that. In the same argument the Stasi debriefing tapes, which were certainly complete and which were turned over to the defense a long time ago, were used to show Stasi was lying. That's the attempt. No complaint about those tapes.

I suggest to you, suggest to you, if the government is going to withhold tapes, if we are going to do that, which we didn't, obviously, which would withhold if you were trying to work this up, some nonexistent tapes on D'Anico or the Stasi debriefing tape with Rogers? Think about that one. That I don't think takes too much time to figure out.

Witnesses answer defense counsel on cross examination. That's an answer I like, and they argue that in summation. That's fine. I would too.

About about all the other answers? What about direct examination?

Another argument. Why no fingerprints?

Gee, that would be a case. I mean, you know, you get those figerprints. That was made on behalf of the defendant Christiano, I think.

Another one. This is a new one to me, honest.

Where were the wire taps? Why no wire taps? Why no

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bugs? I think it is the first time in my life I have ever heard defense counsel clamoring for wire taps and bugs. That would be different. But don't bring us live witnesses. Don't do that.

Complained about the Kel device, the small transnitting device, you know, where people can he a few
blocks away and hear like a radio, as least as I understand it, being not very good in electronics. Well,
have a Kel device. They don't come out too well. So
when there is a Kel device, where is the tape recorder, the
MAGRA? You got a NAGRA on the body which is transmitted
to some place else, why don't they have a Kel device?
Speculate, speculate, speculate. Why, why,

Then it is argued don't convict because this is a narcotics case. We say the same -- don't.

But there is one difference. When the evidence is there, as it is in this case, then we submit it is your duty to convict, no matter what kind of case it is.

Don't be fooled either that all that's
here is some sort of anorphous, floating conspiracy
charge, people in and out, association. That's not
what this case is about. When you see the indictment
you will see substantive counts. You have heard testinon

about any number of heroin and cocaine transactions.

This isn't just some suggestion that some people might here entered into an agreement and that was it, they are being prosecuted or persecuted for some sort of vague belief.

That's not the case. That's not the record, ladies and gentlemen. And please, again -- I will bore you to death, but I have to say it every time -- the record is what counts.

What evidence do you think would have pleased them? Mone. They are advocates. If we had color movies with sound of all 16 defendants around a table and DiNapoli and Tramunti counting the money the arguments would still be made, and that is as it should be.

Now, let's first look, ladies and gentlemen, at the Washington, D.C. end of this business, if I may. Thomas Dawson, Tennessee Dawson, who pleaded guilty in this very case -- he pleaded guilty in this cas testified about numerous narcotics dealings that he had or that he and Warren Pobinson had first with Paulie the Arrow and after June of 1971 directly with the defendant Butch Pugliese, who he knew as Georgie, and he told Agent Logan about Georgie, according to the testimony, a couple of years ago.

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Tennessee Dawson was asked here if he knew
Butch Pugliese and his answer was, "I don't know Pugliese." He knew Georgie.
But Georgie and Pugliese are one and the same, according
to the testimony and the evidence.

And this is the same Butch Pugliese who you will recall brought Harry Pannirello into the business. Dawson told us under oath that Pugliese, Butch Pugliese, the defendant, used a garage in the Bronx to store the narcotics.

Well, who is going to believe that? I mean, who would store narcotics in a garage? Let's think about that one for a minute. There is independent testimony from Salvatore Spataro and Joe Sharp, Joe LaSalata, that Butch Pugliese did exactly that, two different garages in the Bronx.

Nobody suggested that Mr. Spataro and Mr.

LaSalata, Joe Sharp, had motives to lie. Certainly
nobody suggested they had motives to lie as government
witnesses. But that is what they testified to and,
ladies and gentlemen, that's in the record.

Dawson told you how Pugliese had shot Paulie the Arrow for failing to pay Pugliese for narcotics.

That's Dawson in the federal arrest or cooperating with

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the federal government.

Remember that John Barnaba, then operating in the Bronx, was told the same thing by Richard Forbrick? Was that made up?

Dawson testified how Paulie the Arrow took him and Warren Pobinson to Hank's apartment -- Hank is the defendant John Springer -- in the Bronx. Narcotics were discussed and cocaine was snorted.

John Barnaba identified the same Hank, Hank, just Hank, the defendant John Springer, also Butch Pugliese's customer.

Barnaba had not met each other.

And before Eutch Pugliese went to jail in 1971, October, before that, he introduced Dawson to Harry Pannirello. Pannirello's job was to run Pugliese's narcotics business along with Dilacio until Pugliese got out of jail. Again, John Barnaba, wholly independent of Dawson -- they never met, arrested by different agencies was also introduced to Pannirello by Pugliese for exactly the same purpose in about the same period of time, the summer of 1971.

And Dawson testified further to receiving drugs in New Jersey from Provitera. He described the station-

wagon. You remember that? That's the same stationwagon described by Agent Logan, who dealt hand in hand with both Pannirello and Provitera.

Has Tennessee Dawson been corroborated?

The record establishes that, we submit every step of the way.

Now, Tennessee Dawson, what was his motive to get up there and lie? None. Although he had engaged in narcotics transactions while informing for Agent Logan in Washington, D.C., he was caught and the result of his narcotics trafficking is indictment in this case, this very case, ladies and gentlemen.

Dawson pleaded guilty and that is the only reason Dawson is not now sitting there with those defendants.

Dawson was promised -- he was promised something, yes -- he was promised that the government would stand up for him if, and only if, he told the truth, and to assume that Tennessee Dawson can help himself by committing perjury before you in this case is to assume that Judge Duffy, who heard and saw him testify, will reward Tennessee Dawson for lying to convict innocent people.

Now, that is not speculation, those are the facts, and that's on the record.

Harry Pannirello, also --

MR. ELLIS: Objection, your Honor.

THE COURT: I will permit it.

MR. CURRAM: Harry Pannirello also told you in detail how Butch Puglicse operated as a narcotics trafficker. Beginning in 1970 Pannirello accompanied Pugliese on deliveries to Al Greene and to the defendant Hattie Ware and to Basil Hansen. Pannirello accompanied Pugliese to Joseph Dinapoli's girl friend's house in June, 1971, 1908 Bronxdale Avenue -- you will hear some more about that later -- and we know from a vast amount, vast amount of other independent evidence of Joseph Dinapoli's leadership role in this business. And you he of the money that was delivered by Pugliese to Dinapoli.

Pannirello also met Hank, the defendant John Springer, again through Pugliese. June of 1971, again, Paulie the Arrow. It's on the record. It is corroborated.

Pugliese introduced Pannirello, Pugliese, the defendant, introduced Harry Pannirello to Pat Dilacio in July, 1971, Seaside Heights, New Jersey, and Dilacio was to take over Butch Pugliese's narcotics business and work

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it with Pannirello when Pugliece went to jail, as we know that he did. And take it over Dilacio did.

We know from the testimony that Pannirello delivered for Pugliese in September and October of 1971 before Pugliese went to jail to Greene and to Basil Hansen in guarter and one-half kilo quantities.

In October, 1971 -- the record -- Pugliese went to jail, and just before that Dilacio and Pannirello got their instructions. Dilacio was to get the heroin from DiNapoli and Pannirello's job was to deliver it to the customers. We know that is what he did because that is what he was arrested doing.

Sinatra, do you remember Sinatra, John Gamba, the defendant here, the stash man. You heard about him from Pannirello and you heard about him from John Barnaba.

Did John Barnaba lie about that transaction, the involvement of Sinatra, again? He simply testified that at the going away party the night before Butch Pugliese went to jail Pugliese came up to him and asked him what he, Barnaba, thought of using Sinatra, Gamba, as a stash man in connection with this other operation that Pugliese had going with Barnaba, and Barnaba simply said, I don't know."

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But doesn't that corroborate what we learn from Pannirello who had been arrested by the federal authorities? John Barnaba's testimony.

Then there were the two kilograms after Dawson.

And who is in court, incidentally, when Butch Pugliese
is sentenced? Barnaba, Pannirello and a man named

Basil, and Barnaba, you will recall, identified a

photograph of a man who was identified by other witnesses
as Basil Hansen. They are other photographs and you
can compare the two. They are in evidence.

Hattie Ware was paid as a stash and there was a delivery, Pannirello to here, for Al Greene.

You heard testimony about the kilogram that was stashed at Gamba's, purchases from DiNapoli, and the two ounces of heroin to Dutch Ware, the defendant William Alonzo, who said that he wanted to get rolling again.

Again, no motive by Pannirello to lie. His motive has to be to tell the truth.

He pleaded guilty to two counts in the federal court in New Jersey. He admitted his guilt. Did he help himself with the judge over there by lying here?

How? All right, they can argue, "Help yourself with the government." Help yourself with the judge by lying here? How? Preposterous.

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Then you have the testimony of Jimmy Provitera. He met Dilacio through Pannirello. Jimmy Provitera was a delivery man. That's what he was. He delivered to Dasil Hansen, the defendant Alonzo was present. Delivered to Hattie Ware for Basil Hansen. He delivered directly to Basil Hansen. He delivered to Hattie Ware for Al Greene. Hattie Ware was paid for her role in this. Again, Sinatra's house, Gamba's house. He also talked about deliveries to Washington, D.C. and right back again to Tennessee Dawson. That's the record.

There was testimony about the two deliveries to Warren Robinson at a Howard Johnson's in New Jersey on Route 46. And, again, Provitera and Pannirello were caught by the federal authorities doing just that.

Then in the fall of 1972 we have Henry
Salley when he first met Provitera and there was a delivery
and again another meeting, Salley, and they go to
Henry Salley's room at the Howard Johnson's.

Ladies and gentlemen, you recall Exhibit

107, the hotel registration card. It is in evidence.

You will have a chance to look at it.

Most significant, a very specific item I would like you to think about because we submit it is most im-

portant, Pannirello told Agent Logan -- Agent Logan is the vitness now -- when Pannirello thought Logan was a customer, "I didn't know he was a federal agent," that Allen, Warren Robinson, and Salley, Henry Salley, owed him -- him, Pannirello -- money for narcotics delive to them in Movember of 1972. Do you remember that testimony by Agent Logan. It was testified to by him.

Pannirello was not cooperating then. He thought Agent Logan was a customer.

Now, what is Agent Logan's notive to lie?
Absolutely none.

Every item itself -- Washington, D.C. and the Eronx, 1380 University Avenue situation -- checks out.

You recall Agent Moore's testimony about Dilacio's apartment. Provitera met Dilacio there on Pelham Parkway, January 10, 1972. Dilacio, according to the testimony, was walking a great Dane. The defendant Russo is on the scene. That is the same apartment John Barnaba testified in his testimony. The federal, the state.

The evidence as to these defendants, ladies and gentlemen, has been fully corroborated. It is overwhelming, it is direct: Hattie Ware, William Alonzo, John Springer, Warren Robinson, Henry Salley, John Gamba,

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Basil Hansen, Estelle Hansen, Al Greene, their roles spelled out, proved with corroboration beyond any fair doubt, proof that they knowingly participated in this venture.

MR. KING: Objection, if your Monor please.

THE COURT: No, I will permit it.

Go ahead.

MR. CURRAN: You note the explanation? You know what it is. It is the explanation for all of this business and it was mentioned first by defense counsel so I claim no credit for the words, "the almighty buck." That's what this case is about, the almighty buck. The almighty bucks, that's what it's about. Commercial narcotics traffic, bucks, lots of them. That's what it is about and that is what the evidence shows.

Now, Dawson, Pannirelly and Provitera, there can be one attack and one only, the same as we mentioned: they were caught and they lied to help themselves. They would do anything, lie, steal, cheat, commit perjury.

Well, as I said, and I will say it again because you really have to think about it, Dawson pleaded guilty in this case, the other two pleaded guilty in the federal court in New Jersey, two counts.

You could argue, "They would help themselves

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with the government though."

Well, accept that for the purposes of this argument. Accept it, to help himself with Judge Duffy, Dawson, the other federal judge in New Jersey. Can they help themselves by framing innocent people, cormitting perjury? No way. No way.

In addition to taking care of his Washington,
D.C. and the New York City customers, the defendant Pugliese wanted to make sure that his flourishing business
would continue to flourish while he was away in jail, and
Pannirello told you of his arrangements with Pugliese
and Dilacio to bring this about. And who in New York
was their first major customer? Do you recall the
testimony? It was John Barnaba.

Barnaba told you how he arranged with Pugliese, who in turn introduced him to Dilacio and Pannirello, sop they would have a source of heroin after Pugliese went to jail in October of 1971. And Barnaha told you of his deals, narcotics deals, with the defendant John Springer whole knew as Hanl. And, ladies and gentlemen, John Barnaha' involvement with Butch Pugliese is corroborated virtually down the line, down the line -- again, the record -- by the testimony of Joseph LaSalata, who Barnaba knew as Joe Sharp.

You will recall that Joseph LaSalata testified in this case and I don't think anyhody has suggested to you that Mr. Salata had some great motive to testify for the government. You remember him. In fact, it was very plain to everyhody in this courtroom that Mr. Salata was a hostile witness to the government. Yet Joe Sharp, Mr. Salata, testified right there under oath that the defendant Butch Pugliese rented his garage on Merry Avenue in the Bronx for the month of October, 1971 and that Pugliese paid Mrs. LaSalata \$25 for the garage. You recall the testimony. That is the record.

Joe Sharp told us that the defendant Pugliese had told him, Sharp, that John Barnaba would pick up the packages which Pugliese stored in the garage, and Joe Sharp told of three deliveries of the packages of heroin.

He didn't say heroin, packages to John Barnaba.

We know from the testimony of Barnaba there were three deliveries by Joe Sharp to John Barnaba and we know from John Barnaba what were in those packages.

Joe Sharp said, "I thought they were football tickets." I don't know what that means, it is irrelevant. I know it corroborates Barnaba down the line, as I said, down the line.

And may I recall also to you, because it is awfully important, the testimony of Salvatore Spataro, who told you that the defendant Butch Pugliese also used his garage to stash contraband in 1971. I think he said eight months beginning about the spring of 1971, as I recall the testimony, but it is in the record.

Did Mr. Spataro have a motive to come in here and lie? Was he arrested, harassed, threatened, promise He was not.

We also know from the testimony of both Harry Fannirello and John Barnaha of the defendant Pugliese's involvement in a narcotics operation, a partnership, business, with the defendant Joseph DiNapoli.

I think you will recall just about three weeks before Pugliese went to jail in early October of 1971 he, Pugliese, told John Barnaba in the Cottage Inn -- you have heard that name before, too, the Cottage Inn, other witnesses have talked with that, not government witnesses either -- in the cottage inn, that he, Pugliese, was in partnership with DiNapoli in everything but the Cottage Inn itself.

This was not in December, 1971 as stated by one counsel. The Cottage Inn, Butch Pugliese, John Darnaba, was in October, 1971.

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I might mention to you that you know also from the testimony of Mr. DiBenedetto -- not a government witness, that was pretty clear, I would think -- that DiMapoli and Mamone did indeed spend time at the Cottage Inn.

You also know from the testimony of John Barnaba that the defendant DiMapoli and the defendant Mamone were joined together in this partnership, a narcotics partnership, not a gambling partnership, not a loansharking partnership, a narcotics partnership.

You will recall that after Pugliese went to jail John Barnaba met with Patty Dilacio in Dilacio's apartment in Pelham Parkway — that is the same one that has been testified to by agents and by Harry Pannirello — and it was around noon on a Saturday, according to the testimony, and Dilacio — he was inquiring about narcotics, Barnaba was, and Dilacio, who we know from the other testimony was ordering narcotics from Dilapoli, told Barnaba that Butch was Dilapoli's partner.

And Barnaba said — you remember the testimony, it's in the record — "Butch? Butch is in jail. It can't be. You know, how could he be the partner?"

Dilacio then told Darnaba that he wasn't talking about the defendant Pugliese but, rather, about the defendant Angelo -- the other Dutch -- Butch Mamone.

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Now, ladies and gentlemen, the evidence in this case with respect to the defendant Angelo Butch Mamone has shown -- all the evidence not pieces, all the evidence, because that is what it is all about, you have got to look at all the evidence -- that he operated at the highest levels of this conspiracy. Defense witnesses, not government witnesses, have told you of his close association with the defendant Di Napoli. That corroborates Barnaba's testimony in a very significant respect.

We also know from the testimony of John Barnaba and Frank Stasi that the defendant Mamone was active, was active in the narcotics business which the defendants Inglese, Joe Crow, Finnegan, Christiano, Stasi and others operated out of the Beach Rose Social Club on Wilkinson Avenue in the Bronx.

Mamone's involvement, ladies and gentlemen, goes back to at least November of 1970. Again, the record.

You will recall that Barnaba testified that back in November of 1970 he delivered \$5500 in cash which he had gotten from Forbrick to get narcotics from Inglese at the Beach Rose Club and at Inglese's request Mamone helped count the money. You remember that testimony.

Now, it might be asked, and it should be asked certainly with fairness, "Does this put Mamone in a nar-

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cotics conspiracy?"

Absolutely not. Does the government argue that it puts him in a conspiracy? Absolutely not.

Is that the only evidence standing alone against Mamone? Would that make him part of the conspiracy? Not in my judgment, absolutely not. The answer is it doesn't standing alone. All the proof must be examined as a whole. Again, that boring word, unduly repetitive, the whole record. And the proof as to the defendant Mamone just begins with that transaction.

I think you will remember on another occasion shortly after that one there was a time when Barnaba had to wait to get narcotics from Inglese. The testimony was there was about a ten to a fourteen-day period, Barnaba had delivered money from Forbrick but the narcotics wasn't forthcoming, and he was making daily or almost daily visits to the Beach Rose to find out, you know, where is the narcotics and Forbrick was getting nervous.

One day Barnaba went to the club and told

Inglese that Forbrick was nervous, concerned about his
money, and that Barnaba would like to introduce Forbrick to

Inglese so he could allay Forbrick's fears, satisfy him so
he wouldn't have to worry any more about his money.

Inglese questioned whether this was a good idea.

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It was the defendant Butch Mamone who heard the conversation -- overheard it, heard. He told Inglese that Forbrick could be trusted. That is the testimony. And it was only after that intervention by Butch Mamone that Inglese saw Forbrick at the club face to face to assure Forbrick, "Don't worry, your money is in safe hands."

Again, in the summer of 1971, going ahead some months, the defendant Mamone established his own involvement in this conspiracy.

Take one and two standing alone. Oh, no, they don't stand alone, we have got to go to the total picture.

You remember the testimony. Barnaba had bought an ounce of heroin from Inglese, Burke had been looking for some, and he got from Inglese, as I recall, three ounces of mannite and Barnaba mixed it himself to sell to Burke, and he did sell it to Burke for \$2000. He bought the whole package for \$3000 from Inglese. Burke complained about the quality of the heroin to Barnaba and Burke was very disturbed but Barnaba took the position, "You don't have the stuff to return to me, tough."

So Burke went looking for Barnaba and Barnaba got concerned. Barnaba went to Inglese. It's all in the record. He said, "About the stuff you gave me, the fellow Burke says it's no good, he's looking for me."

Inglese told him, "Don't be concerned about it."

Again, the defendant Mamone heard -- overheard,
heard -- he was there, in the record, involved in this
conversation -- and I quote from the record, it is at pages
1427 and 1428, Mamone said that, "The guy was a customer
of his, he knew him and that he owed him twenty-five or
thirty thousand dollars."

A customer of his. Are we talking about women's clothes, gambling customers, customers for gambling? What are we talking about? They are talking about narcotics.

Barnaba is telling Inglese, "The guy Burke, he's after me, claims that stuff is no good." And in the same conversation the defendant Mamone says, "I'll take care of it, he is a customer of mine."

But it doesn't end there. Namone does take care of it. He transfers the debt, you will recall. And, of course, Barnaba makes that up, too, lied about that.

Well, did he? Did he, ladies and gentlemen? there it is in front of the Beach Rose Social Club, Barnaba testified July or August, 1971, he had a conversation with Mamone about the transaction when Mamone told him, "You give me the three, I took care of things with Burke."

One thing was sure, Barraba didn't hear from

Burke again.

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You look at these photographs -- I hope you will ladies and gentlemen -- and look at them carefully. You can see the faces, you can see who is in them, Barnaba and Mamone. You can see they are having a discussion and you can see it goes back and forth and there is the

evidence right there. Did Barnaba make that up, too?

Now, it has been argued by defense counsel through the defendant Mamone, "On this record there isn't a scintilla, not a shred of evidence to show that Mamone was involved in a narcotics transaction."

What record is he talking about? Again, you ladies and gentlemen decide that. You look at this record.

John Barnaba told you, ladies and gentlemen, of his numerous narcotics transactions with the defendant Inglese and Inglese's cohorts, Delvecchio, John Crow, Christiano, Finnegan, at the Beach Rose Social Club. This testimony has been wholly corroborated. Stasi was there every day. He testified to it. He testified to a couple of deliveries to Barnaba. That is not disputed.

Another item of John Barnaba, that man who lied on the witness stand, according to the defense, he told you he was in narcotics dealings with the defendant Frank

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Russo. One of these took place in September of 1971.

You will recall that Butch Pugliese introduced Barnaba to Russo at Izzy's Luncheonette. Later that same evening Barnaba delivered heroin to Russo, heroin supplied by Butch Pugliese.

Well, did Barnaba made that transaction? Did he?

We know, we know from independent testimony that in January of 1971 John Barnaba introduced this same defendant, Frank Russo here on trial, to Al Casella, an undercover New York City Police Officer, and we know that on January 9, 1973, four days after the introduction and the receipt of a sample, Casella bought from Frank Russo, the defendant in this case, one-half a kilogram of heroin for \$19,500, and that heroin is right there. That is over a pound.

Later on January 16th another one-ounce transaction with Frank Russo and Al Casella. Not John Barnaba, a police officer, Al Casella. Did he make it up, too? Did he cut the heroin and bring that in here?

That is another and we submit highly significant item of corroboration of the witness John Barnaba.

John Barnaba has also told you of his numerous dealings, narcotics, narcotics dealings -- not cars, not

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numbers, not shylocking; junk -- with Inglese, Crow, Delvecchio and Finnegan, Donato Christiano. He bought the narcotics from them and he, in turn, delivered to Richard Forbrick at the animal hospital on Boston Post Road, and in two of those cocaine deals there were deliveries to the defendant Benjamin Tolopka, once by Barnaba directly in August of 1970 and once by Forbrick.

Barnaba's testimony has been corroborated, as
I have mentioned, by Lasalata, Joe Sharp. A big buddy of
the government, wasn't he? You heard him. Al Casella,
a police officer. Sergeant O'Boyle. What about the
Springer seizure? The narcotics is right here. John
Barnaba testified to dealing with Springer. Narcotics
found in his place. And he isn't the only one that
testified about Springer.

The photographs right there. Did John Barnaba talk to Angelo Mamone about the Burke deal? Look at the photographs.

Even from Rose Cadman. Did she come in here and lie, too? She corroborated John Barnaba. She dealt with the defendant Inglese.

And perhaps most significantly, ladies and gentlemen, by the testimony of Frank Stasi.

Barnaba, Barnaba is an experienced narcotics

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trafficker. There is no question about that. Yet in what respect in this case has he testified falsely? In what respect? On the record, not the speculation, the record. There isn't a shred of evidence to show that he has. Search the record. Examine his motive. Search the record again and examine his motive again. Not one item, ladies and gentlemen, of Barnaba's testimony has been shown to be false in this record.

MR. POLLAK: Your Honor, one of the jurors, I think, is raising his hand.

MR. CURRAN: I think he wanted a break, your Honor.

THE COURT: All right, fine. I think it would be appropriate here.

Mr. Marshal, take the jury out.

(The jury left the courtroom.)

THE COURT: All right, gentlemen --

MR. ROSENBERG: If your Honorplease, I didn't want to interrupt Mr. Curran on his summation, but at this point I am going to ask for a withdrawal of a juror and a declaration of a mistrial for three reasons:

He referred to the indictment and he says the indictment is something that counts. I think that is obviously prejudicial. I don't think it can be cured at

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this time.

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He put his own credibility in issue when he was addressing the jury with respect to the evidence in this case and, further, your Honor, he gave this court the appraisal with respect to the evidence as reflects on Dawson. As a result of that, I don't think the Court can cure that. For those reasons --

THE COURT: I assume you join in this?

MRS. ROSNER: Yes.

MR. DOWD: More particularly with respect to mysel at no time during my summation did I make any allegations with respect to the credibility of Mr. Phillips and Mr. Curran, particularly Mr. Curran and the government, about his case and he is particularly putting himself on the line in terms of credibility about the manufacture or non-manufacture of this case, and if it is an issue it certainly isn't an issue as far as the defendant Frank Russe is concerned, and I think it is totally improper and it has been the subject of many cases over the years when a U.S. Attorney for any prosecutor puts himself in issue as to the credibility of the case.

So particularly as to my client in this case, I think that my motion has a great deal of merit.

THE COURT: Nr. Panzer?

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MR. PANZER: Your Honor, I join in the motion made by Mr. Rosenberg and I point out the additional factor which is even more serious, he has placed the entire United States Government's credibility in line by his summation and he has placed your Honor's credibility on the line with respect to his summation.

I don't think there was any defense counsel that referred to your Honor's credibility in any way upon the summation. And to say that somebody will not commit perjury because your Honor is here to make sure that he won't and place that kind of credibility before the jury, I think that really calls for a mistrial.

THE COURT: All right. Mr. Siegel?

MR. SIEGEL: Your Honor, I would join with counsel's motions.

Further, I would like to bring to the Court's attention that Mr. Curran in his summation made reference to an identification by Mr. Dawson of Mr. Springer in court. I direct the Court's attention to pages 2616 through 18 of the official transcript. At that time Mr. Dawson testified that he could not identify the defendant Springer.

THE COURT: What is the number of those pages?

MR. SIEGEL: 2616-18, your Honor.

THE COURT: Yes?

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MR. ELLIS: Your Monor, I think that Mr. Curran misstated the record when he argued that Stasi corroborated Barnaba's testimony concerning Mamone's involvement in narcotics. The fact of the matter is that Stasi did not testify at all about any Mamone involvement in narcotics and that ought to be corrected.

THE COURT: Yes?

MR. KING: If your Honor please, as I understood Mr. Curran in his summation today, he mentioned a number of defendants, including John Gamba, as part of this entire conspiracy. Taking Provitera and Pannirello at their word, they are the only two with whom John Barnaba had anything to do whatsoever, and to hook him up with this entire conspiracy is a gross distortion of the fact. I think it is sufficient to withdraw a juror.

THE COURT: All right. Does anybody else want to be heard? I ssume everyone joins in the motion, right?

MR. POLLAK: Yes.

THE COURT: All right. Denied.

We will take ten minutes.

(Recess.)

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(In the robing room.)

on the objection, which I think is well-founded, made by Mr. Rosenberg with regard to that portion of that Mr. Curran's summation relating to your Honor, I think it would be appropriate if your Honor were to instruct the jury at this point with regard to the precise functions of this court, which do not include in any way the inferences -- more than inferences -- the statements made by the U.S. Attorney in his summation.

MR. LOPEZ: Or, your Honor, if I may add to that, at least give Mr. Curran the opportunity to correct that statement in his own summation, as you did with Mr. Fisher, to be equally fair.

MR. ROSENBAUM: May I just add to that. I was advised that Mr. Curran made the statement that I in my summation made a statement that the government refused to give me tape recordings of Stasi's debriefing, or words to a similar effect:

THE COURT: I don't believe that was said.

MR. CURRAN: Your Honor, I said no such thing.

MR. DOWD: Yes, you did.

THE COURT: I didn't hear it if it happened.

MR. ROSENBAUM: If I can get that part read back,

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I have yesterday's transcript, your Honor, of that part of my summation, in which I said, your Honor, the truth as to what occurred that night would have been on a proper tape and that tape by law is required to be given to me as defense counsel before this trial and all I was told is those tapes were garbled and you were told the same thing, referring to the jury, your Honor.

Now, I did not make a statement that the government refused to give to me those tapes. I said that those tapes were garbled and I just suggested to the jury that garbled tapes would be of no avail to me. I did not say the government had refused to give it.

If your Honor does not recollect, if the reporter could please read back the reference that was made, I would appreciate it.

MR. CURRAN: If I may, your Honor, my recollection of what was said yesterday by Mr. Rosenbaum was, in part, that it was suggested to the jury, if not stated, and it may have even been stated, that there was a true tape of this and that it was covered up or suppressed by the Police Department.

The reference that I made in my statement was specifically to that. I have my notes of what Mr. Rosenbaum said yesterday.

MR. ROSENBAUM: I said, your Honor, yesterday -and I have my entire summation here -- that it was my
impression or I believed that those tapes or the reception
on the Kel transmitter was not that garbled up, I couldn't
believe it to have occurred, but I did not make any suggestion that the government was withholding those tapes
from me or the government had any inference or any part
of anything to do with the garbling of those tapes.

I have, as I said before, my reference before me with respect to those tapes and in no way did I infer that the government was holding back good, usable, hearable tapes.

MR. CURRAN: May I ask a question through your Honor?

THE COURT: Go ahead.

MR. CURRAN: Did not Mr. Rosenbaum say yesterday that the Police Department had a tape of this and that this tape was suppressed?

MR. ROSENBAUM: No, I did not.

MR. CURRAN: In substance.

MR. ROSENBAUM: I give you the transcript of yesterday and I ask Mr. Curran to please tell me where it is.

THE COURT: We are not going to read the summation back, gentlemen. . That is going to take what, an 2 h

hour and fifteen minutes. Do you want it read back?

MR. ROSENBAUM: No, your Honor. If I am wrong, I am wrong.

MR. CURRAN: Your Honor, may I read from pages 4816 to 4817.

Better yet, your Monor, may I just refer y in Monor to the record, starting with the first full paragraph on 4816 and continuing over to 4817. That is at least for openers.

(Pause.)

MR. ROSENBAUM: I don't say anything inconsistent I have not said, your Honor, that the government had anything to do with the suppression of those tapes. I don't say it. I say that the investigating aspect of this tape was such that it's hard for me to conceive that the tapes were not working at the time of the surveillance.

I am not suggesting that they were withholding anything.

I am just saying that I can't believe they were garbled.

The suggestion I understand Mr. Curran gives to the jury is that I imply that the government is withholding good tapes from me.

THE COURT: I don't remember it, to tell you very honestly, I don't remember it at all.

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MR. ROSENBAUM: Your Honor, this occurred only maybe the last hour or so and possibly we can get the court reporter just to read those --

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THE COURT: No way.

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MR. ROSENBAUM: No way?

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THE COURT: No way.

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MR. DOWD: That is one of the two outrageous

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remarks made by defense counsel.

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THE COURT: All right.

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(Recess.)

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(In open court; jury present.)

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THE COURT: All right, Mr. Curran.

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the Light, Mr. Curran.

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MR. CURRAN: Ladies and gentlemen, John Barnaba, about whom we were talking before the break, dealt in nar-

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cotics time and again with these defendants beginning in

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1970, about August, amicontinuing through 1972. As late as

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November 22, 1972, after his arrest, he discussed narcotics

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with the defendant Inglese, and this conversation is memorialized.

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. Now, you heard the recorded conversation of

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Barnaba's meeting with Inglese and Inglese's partners,

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Finnegan, Moe Lentini, and the transcript of that conversation is in evidence before you.

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MR. FISHER: Objection, your Honor. It is not

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2 in evidence.

THE COURT: I will permit it.

MR. FISHER: Your Honor --

MRS. ROSNER: Your Honor, the objection is that Mr. Curran said the transcript of the tape is in evidence. It is not.

MR. CURRAN: I will withdraw that, your Honor. The tape is in evidence.

THE COURT: All right.

MR. CURRAN: The tape is in evidence and you were allowed to read a transcript of the tape to which the witness testified. Again, the reord. If in your deliberations you want to hear that tape, it's an exhibit, you are entitled to hear it. If you want to, in your deliberations, review the transcript which you were permitted to read before of the tape you are permitted to read it.

I just want to mention to you that it's your recollection of what you hear on that tape, not mine, that governs, and if you don't agree with the transcript, that's your recollection and your decision that controls. But I do want to read to you from the transcript which you saw earlier. Again, the tape is available, the actual tape.

The conversation with Finnegan, Barnaba says, talking about Inglese, "You don't know if he's got anything,

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Finnegan says, "No, I got no idea at all."

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Then Finnegan goes to look in the bar.

There is a conversation then with the defendant Inglese and Barnaba says, "My man, where the hell you been? I can't get a hold of you."

Inglese says, "Don't come near the house. The house is --"

Barnaba says, "Nah, all right, listen."
Inglese, "What?"

Barnaba, "Anything doing?"

Now, you reference back before with Finnegan.

Barnaba said, "You don't know if he's got anything,
huh?"

Now it's with Inglese, "Anything doing?" the ... same word, "anything."

Response by Inglese, "Nah, tremendous figures."

Barnaba, "How much?"

Inglese, "41, 42. If anything, I'll see

Further conversation.

Now, if you want to conclude that they were talking about women's clothes you may do that. But I submit to you that on the record and in the context they were talking about narcotics and the 41, 42, was reference to 41 or 42 thousand dollars for a kilogram

of narcotics.

You will recall that a couple of months later there was a purchase of heroin in this case, the Russo transaction with Al Casella, and you will recall -- again, the record -- the price paid by Al Casella to the defendant Russo -- the narcotics is right there -- was \$19,500 for a half a kilogram.

And that evidence as to what transpired in that meeting stands before you loud and clear and my recollection is -- and it is my recollection and yours controls -- that the witness Barnaba wasn't even cross examined about that transaction.

Now, ladies and gentlemen, I would like to turn to Frank Stasi. Unlike Barnaba, I submit to you, if you remember him, you think about him and his background, unlike Barnaba, a rather pathetic figure.

Stasi, unlike Barnaba, was pushed into narcotics by the defendants in the case, Inglese, Delvecchio.
Stasi was the man they ordered around when they needed
somebody to do the dirty work. He was a patsy.

You saw him. Is he the architect of some big narcotic conspiracy? His nickname was Boo-Boo.

He didn't get that from the government. He testified as to when he got that nickname.

You saw him cross examined. You saw him on direct. You heard about his background. Big narcotics trafficker? Not until he was pushed into narcotics.

A man of limited intelligence. At one point in their arguments they say very cleverly that diabolical, clever Frank Stasi. That is when it suits one purpose.

Another purpose. That stupid man, we cross him up here and we crossed him up there. Isn't he stupid? That's why they call him Boo-Boo. Have it both ways at the same time.

But he is clearly a man of limited intelligence.

He was introduced into the business by his friends, his friends, the defendants in this case, Inglese, Tramunti,

Joe Crow.

and truthful? The glasses off and on, the mixing sessions. Use your apartment, Boo-Boo, use your apartment when things get hot, take it up there, go do it, pick up the mannite from Joe Ceriale, from Joe in the barbershop, pick it up, go to Mamone's house, tell him Gigi, tell him I want to see him, deliver to Barnaba, deliver to Marchese, do this, do that. And he did it. Visit Gigi Inglese in jail and relay an inquiry from Tramunti.

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I don't remember the number.

"A I guess so.

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	2	"Q Finnegan got more tips than you,
	3	didn't he?
	4	"A I don't know.
	5	"Q It seemed to you that he was more well
	6	liked by the people there, didn't it?
	7	. "A I couldn't tell you.
· ·	8	"Q You knew you weren't too well liked,
	9	didn't you?
:	10	"A I wasn't?
	11	"Q Yes.
	12	"A Well, then I made a fool out of my-
	13	self."
) · 1	14	That's Frank Stassi.
	15	MR. SIEGAL: If your Honor please, I
1	16	wanted to wait for Mr. Curran to finish his sentence. I
1	7	take objection to the statement of Mr. Curran that
1	8	Tramunti introduced Stasi to narcotics. There is
1	9	nothing in the record. It's just the opposite.
. 2	o	THE COURT: I don't know if that was said.
2	1	- I don't remember his saying it.
2	2	MR. SIEGAL: A couple of minutes ago, but
2	3	I didn't want to stop him.
2	4	MR. CURRAN: Your Honor, I believe the
2	5	reference was to the defendant Inglese and the defendant

Delvecchio.

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THE COURT: That is what I remembered.

MR. SIEGAL: If Tramunti's name is there can we have it stricken. This is argument. This isn't evidence. Everybody knows that.

MR. SIEGAL: I know, but it isn't fair argument unless it is in the record.

MR. CURRAN: May I proceed, your Honor?
THE COURT: Yes, you may.

MR. CURRAN: Now, that testimony is in the record and it is the cross examination of Stasi and it is directed to his motive, I assume, his motive to want to get Finnegan, to not like Finnegan. Stasi's motive was attacked time and again, his motive to save himself.

Well, Stasi resisted until he realized that
he had to tell the truth. He testified -- it's in the
record -- that he feared the defendant Carmine Tramunti.
He said he tried to hold back. He wasn't smart
enough to pull it off. You saw him. He had no reason,
anyway, to protect the very individuals, the very individuals who destroyed him. Yet-with his Pleasant
Avenue background and his limited intelligence he did
his best not to incriminate people to whom he owed
absolutely nothing, absolutely nothing.

transactions in which he was involved worked and how the defendants for whom and to some extent with whom he worked played their roles in the operation. He told you of the eight mixing sessions, he told you about his own apartment in the Bronx., he told you that he took his orders from the defendant Inglese, and Inglese's narcotics operation was, as the proof shows — and I'll come to

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it -- in turn financed by the defendant Carmine Tramunti.

He told you of mixing sessions with Joe Crow, with Finnegan, Moe Lentini. He told you about deliveries of heroin to John Barnaba at the Beach Rose Social Club, and of the defendant Inglese's deliveries on two occasions to Joseph Marchese, Joe Cab.

who produced the mannite, I mean produced it, brought it to him, Joseph Ceriale.

Ceriale's role was a specialized one, that is certainly clear. But as you have heard from a number of witnesses -- not Frank Stasi, not John Barnaba, a number of witnesses -- an absolutely critical role, mannite, because without the diluents such as mannite, high quality or so-called pure heroin can't be broken down, it can't be cut for distribution on the streets.

Frank Stasi told you, ladies and gentlemen, under oath how this operation really worked and how it worked at the highest levels because he was a worker in that operation. He told it with great accuracy. You saw it. Again, the record. You heard his background. You heard him recite the facts of his own involvement and you heard him recite the facts of the

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involvement of Tramunti, Inglese, Crow, Finnegan, Ceriale, Marchese -- yes, Barnaba, Barnaba too -- and the others.

You have to decide whether Frank Stasi lied to you. You have to consider his motive. Consider it, by all means. Consider it time and again. But please, ladies and gentlemen, when you consider his motive and think about that motive, please think about the facts in this record, all of the facts in this record, and remember the Frank Stasi you saw testifying, direct and cross examination, the endless questions: "Were you asked this? Who did you talk to next?" Gid to take

Remember Frank Stasi. Remember what kind of a man he is. Look at the whole man. And in making that decision over and above Frank Stasi, the whole man, his background, how he appeared to you there under oath and everything else, please also consider the specific items independent of Frank Stasi by which he has been corroborated. Please think about those too. And they are in the record. Let me list some of them, at least.

No. 1, his meeting in May, 1973, at the Centaur Bar with the defendant D'Amico was seen and testified to by Detective Connelly. A minor point. It

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happened. He testified to it, the detective did.

No. 2, do you remember Mr. Finn, the rental agent? He told you that D'Amico used the name Rizzo and lived on West 57th Street in an apartment just where and when Stasi said he lived there under the name Rizzo. And even Mr. Finn has been attacked.

Now, what motive did Mr. Finn have to come in here and lie? Big buddy of the government? Protective custody? No. It has been suggested Mr. Finn had some motive. I don't know what it was. Think about Mr. Finn's corroboration of Frank Stasi.

things in a picture sometimes mean an awful lot, ladies and gentlemen.

No. 3, traces of heroin and mannite were found in his kitchen just where he said he had mixed for Inglese. You won't find that material in your house, you won't find it in my house. They found it there. That is independent corroborative evidence and that is powerful evidence, ladies and gentlemen.

So the answer to that, "Well, why didn't they bring the sample from Delvecchio's house out in New Jersey, that would have been good stuff, good stuff, but not Stasi's apartment, that doesn't mean anything."

Delvecchio isn't on trial.

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Here is another one that hasn't been mentioned in quite a while, corroboration, No. 4. Do you remember Swifty Pellegrino? Swifty Pellegrino was the money launderer who operated out of the Beach Rose Social Club and his picture has been identified. It is an exhibit. You can look at it. Frank Stasi testified that Pellegrino laundered the narcotics moneys which Inglese received at the Beach Rose llub.

Do you remember that testimony. It's in the record.

Did Frank Stasi invent that? Well, you could say, "Well, sure, maybe he did."

Well, not according to Mr. Figuero, the bank man. You remember his testimony. He testified that Pellegrino exchanged moneys, small bills for larger bills, right at the bank near the club in 1970, 1972.

Was Mr. Figuero lying too? Was Mr. Figuero in protective custody?

No. 5, May 30, 1973, Frank Stasi delivered an eighth of a kilogram of cocaine to Moe Lentini in the Barone Bar on Pleasant Avenue. This transaction corroborated by the detective who testified. The cocaine was then delivered in the bar, you may recall,

subsequently to Dominick Lessa. John Barnaba testified about Dominick Lessa too. Do you recall that?

That is the same Moe Lentini, ladies and gentlemen, who is on the tape of November 22, 1972, Barnaba, Finnegan, Inglese, Lentini, the tape I mentioned just a few minutes ago. That is the same Moe Lentini whose \$75,000 bail was discussed with Carmine Tramunti and Inglese in the spring of 1973.

No. 6, corroboration. Frank Stasi told
you that the Beach Rose Club was abandoned as the
headquarters for the operation because of the defendants concern over police observations. Do you
remember that testimony? And we know that concern
was well founded, because there are a lot of photographs
of the Beach Rose Club, many photographs in evidence.
I have a few here which I would like to show you.
You can call for all of them.

and Finnegan and Inglese with another man at the club taken by police officers. It sure was under observation.

Here is DiNapoli and Mamone right there (in-

They are all available. They are in evi-

dence.

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DiNapoli, Inglese, Mamone. There are many more.

It was under surveillance. The police officers testified to it. They took the pictures.

The police testified to it. The people are in the pictures.

Stasi testified about that.

Second, you will recall, I think, about their leaving there, the testimony of Detective Dellarco, who told you that his presence -- he was observing -- was apparently reported to the defendants in the club by a man named Vito Falcetti. Do you recall that testimony? Well, that is corroborative, ... That's what happened. Independent evidence.

Another item. It has been belittled, but I don't really know why. The mannite and the other tools of the narcotics trade are in evidence before you, the ones that were seized from Frank Stasi's car when he was arrested in May of 1973. It is right over there, all the paraphernalia.

Did Frank Stasi know he was going to go into protective custody and going to be arrested in May, 1973 and he said, "I'll-have the paraphernalia and that will corroborate me later"?

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That's what you have to start thinking about. You have to start thinking about in that way when you say that is not corroboration. He was arrested with it and up until that time he didn't know he was going to be arrested. Corroboration? It sure is. It is powerful corroboration.

Incidentally, I believe the record indicates that Stasi was not in protective custody at all from June 6th to July 10th, he was in jail on other charges. There has been a suggestion that from May 22nd or May 23rd, when he was arrested, up until July 10th he was in protection custody and all this time he was being talked to by the police. There is don't think the record is supports that. Your recoilection, not mine, but please go to the record.

And reflect also, if you will, on the testimony of the police officers who saw Lo Piccolo in May, 1973, and I am talking about May 1 and May 2. You will remember that police officers testified that on May 1 Tramunti, Inglese and Stasi were seen in front of Lo Piccolo; May 2, Inglese, Tramunti, the man identified as Frank Lalli and another man, in conversation outside of the Lo Piccolo. Not Frank Stasi; the police officers.

on February 12, 1973 between Frank Stasi and the defendant Tramunti at the Tear Drops Bon-Soir night club. This meeting was also attended, you recall, by Vincent DiNapoli and was testified to by three police officers.

MR. SIEGAL: What is that?

MR. CURRAN: Some more about that later.

MR. SIEGAL: I object to that. Can

we have that read back?

THE COURT: No. Objection overruled.

MR. CURRAN: I am going to talk about that

a little bit more later.

But was that meeting, the meeting itself, and forgetting everything else for now, if you would, was that also a figment of Frank Stasi's imagination? It was not. He was not in protective custody then, he was not cooperating with anyone then, it happened just like he testified it happened.

Over and above these specific points, there are any number of other items of evidence which the government submits establish beyond any fair doubt the defendants guilt of the narcotics crimes charged in this indictment. I urge you, I implore you, that when you sift the evidence you consider some items which may

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have seemed insignificant at the time, but which loom very large in terms of corroboration of the government's witnesses and the case itself, and these are matters where your common sense comes into play.

We have heard that term used a lot. It is a very meaningful one, because it really means something here.

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For example, we know from the testimony that on February 3, 1973, the lubricant of the narcotics traffic, money, the almight bucks, almost one million of them, was seized from the defendant Joseph Di Napoli and the co-conspirator Vincent Papa.

to that situation. It wasn't a coincidence. This was the narcotics money.

On the scene after that seizure Vincent Di Napoli, the defendant Di Napoli's brother, and the associate of Carmine Tramunti.

MR. SIEGAL: I object to it, if your Honor please.

THE COURT: No, I will permit it.

MR. CURRAN: Frank Stasi -- think about this, please, ladies and gentlemen -- identified Vincent Di Napoli sitting right here in this courtroom during his testimony. Di Napoli was sitting as a spectactor in the second row right here staring at Stasi while Stasi testified. What does your common sense tell you about that?

MR. LOPEZ: Objection to that, your Honor.

MR. ELLIS: Objection, your Honor.

MR. POLLAK: Objection.

MR. LOPEZ: I move for a withdrawal of a juror.

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THE COURT: Denied.

Go ahead.

MR. CURRAN: Another most significant item of evidence, evidence, evidence, wicked evidence, in this case may be found in the testimony of Thomas Tennessee Dawson. Remember this, it's in the record.

Mr. Dawson testified that in February or March of 1972, Harry Pannirello -- Harry Pannirello was not under arrest, he is working, he is in the business now -- told him, Dawson -- Pannirello told Dawson that Pannirello' source had just been arrested in possession of one million dollars. No name was given to Dawson. Dawson didn't testify Joe Di Napoli.

Was that made up by Mr. Dawson? He could have.

It is just as easy to say "Di Napoli" as anything else,
but he didn't.

How many times -- common sense, how many times have people ever, ever been arrested in possession of almost one million dollars and how many such arrests occurred in February of 1972 and how many such arrests occurred when a man tells another man who is out in the street, in the business, "That was my source"?

Another important item, we submit, for your common sense is the whole issue of dates in this case.

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Lawyers keep diaries, or supposed to, and they are regarded, at least they are supposed to be more precise about legal matters than non-lawyers. Well, just a common sense example.

Do you remember a discussion here one day during the trial between me and defense counsel or certain defense counsel when the government had submitted to the defense certain statements of John Barnaba? Do you remember that? The statements had been turned over --

MR. FISHER: Objection.

THE COURT: Mr. Curran, my recollection is that all of those statements were taken out of the hearing of the jury.

MR. CURRAN: Your Honor, this had to do with some chronology and it is my recollection that there was a discussion --

MR. FISHER: Objection, if your Honor please.

MR. CURRAN: Your Honor, I see some jurors nodding their heads.

MR.FISHER: Maybe they are sleepy.

THE COURT: We don't need that.

- Ladies and gentlemen --

MR. CURRAN: Your Honor, might I approach the side bar?

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THE COURT: No. Let me just tell them.

Ladies and gentlemen, it is your recollection that counts, not anybody else's.

Go ahead, Mr. Curran.

MR. CURRAN: I said two weeks, somebody else said a few days. We were talking about something that happened within a very short period of time, lawyers right in this Surely this demonstrates something about dates case. when you apply that example with your common sense.

Another example. It's in the record and it is understandable. On February 23rd -- I think it was a Saturday, as best I recall, but, again, your recollection governs on all this material -- while-cross-examining Al Casella, Mr. Dowd, the defendant Russo's lawyer, misstated a date by a year and then noted, in front of the jury --

MR. CURRAN: "I got my years mixed up." Perfectly understandable. It happened in front of you. It tells you something about dates, doesn't it, and your common sense?

MR. DOWD: Objection, your Honor.

What about the defenses offered in this case by some of the defendants?

Hattie Ware, speak to her first, if I may, This defense, the government submits, was briefly.

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Avenue, from Hattie Ware at least, and her narcotics activities with Basil Hanson. I am not going to go into great detail on that, but there is one-point I want to bring to your attention because my recollection is it wasn't alluded to very much by defense counsel in his argument.

There was a photograph taken at the Copacabana. No mistake about that. Butch Pugliese, the supplier of the narcotics that other witnesses testified to, and Hattie Ware and there are people seated at a table — and this is in evidence, Exhibit 69 — there are others here, too, and Miss Williams testified that the people who joined their table, that is Pugliese and the lady with him, were introduced to her, Miss Williams, by one of the group. The introduction was Hattie Ware, Estelle Hanson, Basil Hanson. They are all together right here in this picture.

Barnaba didn't take that picture, Harry Pannirello wasn't there at the Copacabana in the picture or takingit, according to the evidence, at least; Tennessee Dawson, he didn't take it, he wasn't at the Copacabana that night.

Miss Williams also corroborated government evidence. She said where Hattie Ware's apartment was, as I recall the evidence, the 11th floor, Al Greene on the 7th

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floor. Miss Williams testified to that. It was not a government witness, she testified for the defendant Miss Ware. Some common sense there, too.

Miss Williams testified that the defendant Alonzo the defendant Hattie Ware's brother, Butch Ware sometimes called, was staying at Hattie's apartment, Hattie Ware's apartment.

May I talk briefly now to the defense of Henry Salley.

provitera, according to the record, picked Salley out right in this courtroom and he picked him out -- and, again, it is your recollection, not mine -- in the middle of all of the defendants, not right here. When Provitera picked him out, he picked him out of a group.

I submit, ladies and gentlemen, that Salley's defense, again, corroborates, corroborates, supports the government's witnesses in this case. He knew Warren Robinson and Dawson. He testified to that. He came to New York with Robinson to buy clothes. He said he never met Pannirello or Provitera and he swore that he had never stopped at Howard Johnson's on Route 46 in Ridgefield Park, New Jersey, near the Jersey Turnpike. He said he never dealt in narcotics, never been convicted of a crime.

That was direct examination. That sounds

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reasonable. It sounds very good. But let's reflect back to cross-examination.

Again, please, the record and your recollection, but if you have any questic is go to that record.

Cross-examination, among other things, he was shown a hotel card of Howard Johnson's. He was asked about the signature. He said no.

I should also tell you that he wrote out his signature during that recess, Exhibit 108. He wrote that out. That is in evidence.

After the luncheon recess, Henry Salley got back on the stand and he stated that he refreshed his recollection by telephoning his sister and that reminded him that he had stayed, indeed, at a Howard Johnson's somewhere, somewhere in New Jersey and somewhere off the Garden State Parkway. He doesn't remember exactly where. And he stayed there with a lady named Dolores Jackson, who is now dead.

As Irecall the testimony, he said he wanted to go away for a couple of days with this lady, he just drove out of Washington and ended up in New Jersey at the end, the north end, according to the evidence, of the New Jersey Turnpike.

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How many miles do you drive just in the State of New Jersey if you are coming from Washington? And he just ended up there and the hotel card just said one person and of course, that was because, you know, you could save a couple of dollars if you put down one instead of two.

Well, I suggest to you, I submit to you that if you apply your common sense to that testimony, only one conclusion is compelled. Henry Salley — and there was a witness to this and a stipulation — the witness, at least, is from that Howard Johnson's and he testified before you — and, again, it is your recollection — and the stipulation that he was, indeed, at Howard Johnson's in Ridgefield Park, and if you look at the date on Exhibit 107 he was there at just about the exact time, certainly the month, that the government witnesses told you he was there. I submit on the record that the testimony given by the defendant Salley under oath was false and I think that conclusion is simply inescapable.

What about the defendant Inglese? He had a defense. Mr. Zimbardo.

I am not going to spend much time on that, but
I would like to make a point again that Mr. Zimbardo, if
he did anything else, except, of course, no narcotics,
corroborated Primrose Cadman very substantially. Primros

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Cadman did, indeed, go to Diane's Bar according to Zimbardo's testimony, Primrose Cadman did, indeed, sell stolen clothes according to the defense witness. Mr. Zimbardo said he never saw the defendant Inglese or anybody else give her any heroin. It's a public bar.

Primrose Cadman hadn't done. Mr. Zimbardo put the defendant Finnegan in Diane's Bar, because Primrose Cadman didn't testify to that. Miss Cadman's motive? No motive to testifyfalsely. Mr. Zimbardo's motive? The government accepts his testimony. It's a public bar.

Have you ever been in a public bar? Did you ever see anybody pass someone narcotics? I never have. He is a bartender. He is working there. I think you can take it from there. Again, common sense, ladies and gentlemen.

Butch Pugliese, his defense. It happened rather quickly so maybe you don't recall it, but it is in the record. I was his first witness and he didn't like those answers, Mr. Phillips got on the stand, established absolutely nothing by way of defense, no bearing whatsoever on any of the evidence in this case.

Plenty of corroboration as to him, though.

Paulie the Arrow, Barnaba. Do you remember that one?

Forbrick, as I recall the testimony, told Barnaba about

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Butch Pugliese and the Paulie the Arrow shooting situation.

Pugliese himself told Dawson, totally separate.

Was that made up? How? By whom? Again, please, your common sense.

What about the defense of the defendant Joseph Di'Napoli? Mr. Di Benedetto. Here, again, the record, please, but if you think about it, he corroborated the government witnesses pretty darn well, virtually point by point.

What is the defense of Di Napoli? Do you believe Mr. Di Benedetto? Not narcotics, never narcotics. Gambling, loan sharking, anything, but not narcotics, not junk, never. That's the defense.

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Can you imagine using your common sense how desperate you have to be to defend this case by saying, "I am a loan shark and that is where the million dollars came from"? Never narcotics. It's even more heinous than loan sharking.

The highlight of Mr. Di Benedetto's direct testimony -- he is a defense witness -- was that when Di Napoli pleaded guilty and was sentenced in this building for loan sharking the Assistant United States Attorney --as I recall, the name was Hinckley; your recollection, not mine -- stated that Di Napoli's business, referring to loan sharking, involved hundreds of thousands of dollars, and the point was made that no mention was made then of narcotics.

Di Benedetto didn't mention narcotics, the Assistant didn't mention narcotics.

Well, that is some sologism. He wasn't charged with narcotics in that case. The Assistant U.S. Attorney tells the Judge the man is pleading guilty to loansharking and he talks about the crime. It's not so bad, is it, to talk about other things? And then the conclusion of the syllogism is therefore Joseph Di Napoli is innocent of these charges.

Well, use your common sense. You know from this trial what Mr. Hinckley said in some other case about loan

sharking, you know from this trial of his deep involvement in the narcotics traffic. The evidence in this case ties

Joseph Di Napoli to narcotics, it ties the million dollars or almost million dollars certainly to narcotics, co
conspirator Vincent Papa.

Above that evidence -- please, ladies and gentlemen, the record and common sense -- is there a rule, some rule that says if you are involved in loan sharking you couldn't possibly be involved in narcotics? That is not the record in this case. In fact, that is not the record argued by defense counsel in this case, is it? You know better, right from this case, right from this record.

Where is the money acquired which the loan shark loans out? It has to be raised first. Joseph Di Napoli raised it by selling heroin. Loan sharking and narcotics go hand in glove.

MR. LOPEZ: Objection, your Honor. There is no evidence in this case as to that.

THE COURT: I will permit it. Go ahead.

MR. CURRAN: And that defense, that defense in quotes, is wholly at odds with this record and I submit in insult to your intelligence.

That was direct examination. What about Mr.

Di Benedetto's cross-examination? We had a right to ask

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some quesetions too.

Well, he told you that he knew Angelo Mamone, he saw both Mamone and Di Napoli at the Cottage Inn.

He also testified that he had seen Inglese, but I think not in a while. But it's your recollection. He also told you of his, Di Benedetto's, introduction by Di Napoli to another man in 1969 and 1970. Who was the other man? Vincent Papa.

A Di Napoli witness.

He told you that Vincent Di Napoli was at 1908
Bronxdale Avenue the night that Joseph Di Napoli and Vincent
Papa were arrested with the almost one million dollars that
is in evidence before you. The pictures are there. He
also told you on cross-examination, a defense witness -and this is my recollection again, but the record, please -that from 1969 to 1972 while working for Di Napoli loan
sharking he did not know how Di Napoli obtained the money
he was shy locking.

Well, you know from the evidence in this case how Di Napoli got that money. From among other people, from Butch Pugliese and the narcotics traffickers in Washington, D.C. and in the Bronx.

I would like to address myself now to the defendant

Joseph Ceriale. Here again was a defense which corroborated

in a number of respects, a number of respects, the govern-

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ment's case.

You recall the two supervisors who testified.

As I recall, the names are Mrs. Sanchez from the Model

Cities Program and Mr. Cermak from the Washburn Wire Company

Well, the Model Cities evidence, as I recall it, was that Mr. Ceriale went out on jobs in the Model Cities area, which included East Harlem, and Mr. Sanchez, as far as he knew, Mr. Ceriale did the jobs. He didn't supervise him, you know, looking at him doing the work, but he got the assignments, apparently they were performed. He wasn't under his thumb. He was out there doing the work in the Model Cities area that included East Harlem.

But Mr. Cermak told us about Ceriale working at the Washburn Wire Company and that plant, the Washburn Wire Company, was located -- this is in the record -- literally one block from the barbershop at 119th Street and Pleasan Avenue. Mr. Cermak testified that the plant ran, as I recall the testimony, from 114th or 115th on the East River Drive to 118th or 119th, Pleasant Avenue is one short block west, inland, from the East River, just off the East River Drive.

You will recall that Mr. Cermak testified that the defendant Ceriale worked three shifts at that plant.

As I recall the testimony, it was 7 in the morning to 3

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in the afternoon, 3 to 11 and 11 at night to 7 in the morning and he would work around, so that it would be one week, one week, one week on each shift, and then presumably start again. At least, that is my recollection of the testimony. On any two out of three weeks Joseph Ceriale would not be working at the times when Stasi testified he saw him at the barbershop. The only shift which could possibly interfere, one black from the plant, would be the 7-to-3, because as I recall Stasi's testimony it was between noon and 3 in the afternoon when the mannite transactions took place.

Again, your common sense tells you that Frank
Stasi testified truthfully about Ceriale, the mannite man,
the man with a critical role in this conspiracy.

You will also recall that Stasi identified the defendant Ceriale out of 36 men in this courtroom, the defendants and counsel, and did so without any hesitation whatsoever.

You also recall that Stasi -- it's in the record and it's your recollection -- testified on redirect examination by Mr. Phillips that there was a nickname, Joe D or Joe Dean, and there were no questions asked Stasi about that.

Now the defense of Mr. Ceriale as I understand it is that Ceriale never had red hair, therefore he couldn't possibly be ever called Joe Red, because that would be an

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inaccurate label.

Well, you recall, ladies and gentlemen, that

Stasi testified that at the instructions of the defendant

Inglese he went to Pleasant Avenue and got the mannite from
this defendant, Ceriale, whom he identified. Identified

as Ceriale in the courtroom? No. That man.

ever had red or tinted hair only came up at one of Stasi's debriefing sessions when he said that the defendant at one time had red hair. I submit, ladies and gentlemen, the evidence is clear that Stasi dealt with this defendant in connection with mannite, he identified him without any problem, and Stasi never claimed that this defendant had red hair during the mannite times that he was talking about in this conspiracy. When all the sound and fury about Joe Red and the red hair is stripped away we have an impression on Stasi's part that at one time Ceriale had red hair.

At any rate, you saw Stasi testify. You saw him identify the man, the defendant Ceriale. You recall also in this connection, on this color business, you recall again, the record and your recollection -- that Stasi also identified the defendant Mamone. I think he said -- in any event, it's pages 379 and 380 of the transcript -- I think he said, "The man in the brown suit next to Finnegan," and

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Mr. Ellis, Mamone's counsel, got up and said, "Blue suit."

He said, "Next to Finnegan." Is there a serious question
as to whether Stasi identified the defendant Mamone?

MR. ELLIS: Objection to the characterization of the evidence. It's not accurate, your Honor.

THE COURT: All right. Go ahead, continue.

MR. CURRAN: Whether Stasi had trouble with colors or not, the evidence is clear -- the record -- that he had no trouble identifying the defendant Ceriale.

Now I would like to turn to the defense of the defendant Benjamin Tolopka, Benjamin Tolopka, the former police officer.

He offered a defense. He testified from the stand. The defense had a good deal of superficial appeal, I submit. But I also submit that when you look at that record carefully that defense does not hold up.

Now, there has been a very clever attempt to convince you that Tolopka's guilt hinges on the uncorroborated, wholly uncorroborated testimony of John Barnaba.

Well, Barnaba's testimony in this case, ladies and gentlemen, has been corroborated time and again by other witnesses. Al Casella, you remember Russo, Harry Pannirello with Springer, Inglese, Lasalata, Sharp,

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Inglese, Exhibit 20, the pictures in front of the Beach
Rose, the tape. There isn't one matter of substance that
others touched upon, other witnesses, in that matter that
Barnaba has been shown to be untruthful or even to have
erred.

In fact, you will remember that Tolopka's own witness, Stasio, told you that Forbrick and Tolopka met at the animal hospital and that Barnaba also went to the animal hospital. His witness.

Tolopka, on the other hand -- and I direct your attention to this most earnestly, ladies and gentlemen -- is not only corroborated as to the facts, but more significantly, made up a defense to try to place on Barnaba a non-existent motive for implicating him. And let me tell you about that, because that is in the record.

Tolopka swore to you that in April or May of 1970 he met Barnaba -- and he didn't remember his name, but he met him, John -- for the second time in his, Tolopka's life at a car lot in the Bronx. He did say, parenthetically, he did recall meeting Barnaba once before in about 1967 or '68 up-State, when he was introduced to Barnaba by Tolopka's friend and neighbor of 18 years, Fred Lallie. This, incidentally, is the same Fred Lallie who Barnaba testified right here -- the record, page 1834 -- negotiated with for

a purchase of heroin in 1972 or 1973, after Barnaba was cooperating with Frank Rogers.

Well, Tolopka swore that he didn't even know what his friend and neighbor of 18 years, an up-State friend of six or seven years, did for a living. A small point, but again, an important one. Use your common sense. He travelled with him up-State, visited with Barnaba, 18 years friend and neighbor, doesn't have any idea of what he did for a living.

Barnaba drove a school bus. Well, Tolopka had to say that. He had to say that. Tolopka swore -- and this is, we submit, the critical piece of testimony as to Tolopka -- he swore that he gave Barnaba \$300 the day after that April or May meeting at the car lot, Barnaba came to his house, he gave him \$300 at his, Tolopka's, home for a down payment on an unidentified used car, and that Barnaba never came back with the money, took off, swindled him.

Now, this is the very tight, to use his language, former policeman who told you that he did this without getting a receipt from Barnaba -- the second time in his life he met him; that day would be the third time, but he didn't remember his name -- without getting a receipt, and that after it happened -- former policeman, very

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tight -- he took no action of any kind to recover the money.

No complaints, civil or criminal.

Now, did Mr. Tolopka impress you as the kind of person who would part with \$300 just like that, be swindled in that kind of a deal? That story, ladies and gentlemen, we submit is incredible on its face. Again, please use your common sense.

But now I would like to come to perhaps the most significant part. You don't have to reject that story because you find that it defies reason on its face. The testimony of a totall disinterested witness requires that you reject it altogether, without regard to anything Tolopka said.

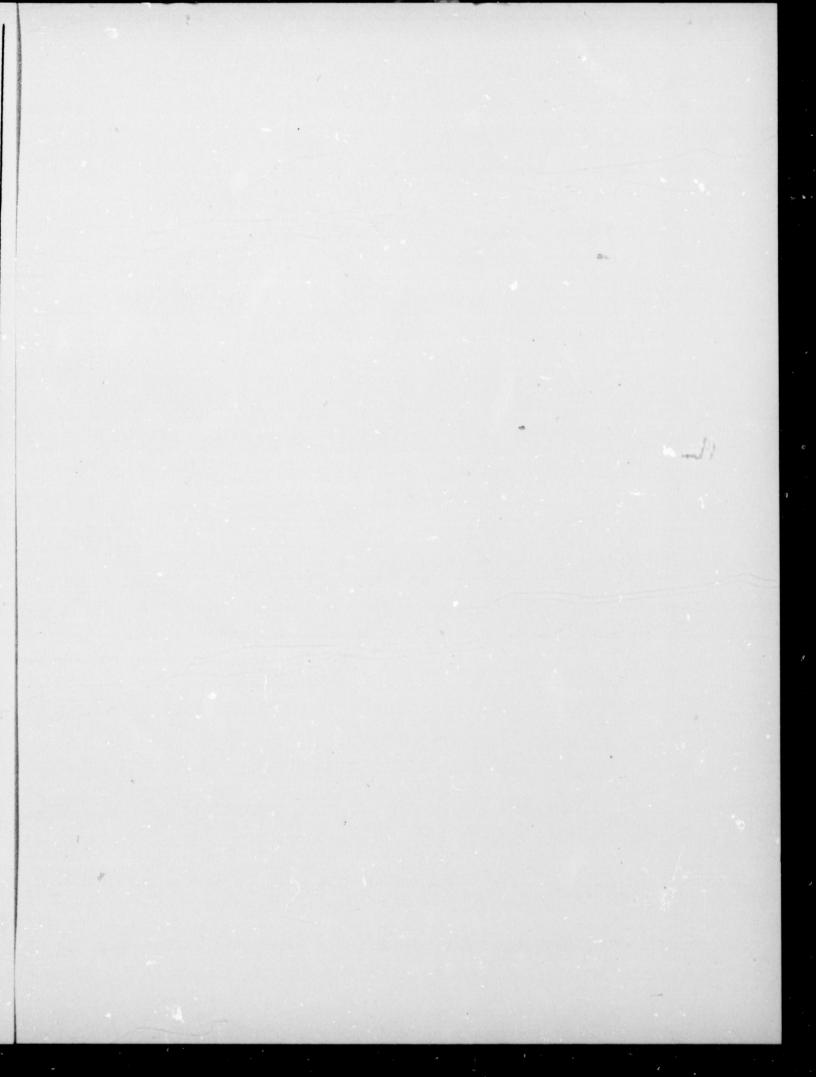
Tolopka testified on cross-examination that this April or May meeting with Barnaba which led the next day to his losing of \$300 took place at a used car lot in the Bronx called Fair Motors, F-a-i-r Motors. You remember that testimony.

MR. RICHMAN: Objection. That is a fact not in evidence.

MR. CURRAN: Page 3931 of the record, your Honor.

THE COURT: Go ahead.

MR. CURRAN: "Q Mr. Fair?



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witness put the lie to that. You remember Inspector

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Vismale of the New York State Department of Motor Vehicles?

He came in as a rebuttal witness. He testified right here that there was no Fair Motors in 1970 licensed in the Bronx, doing business as a used car dealership in the Bronx, and that no dealer named Fair exists, now or in 1970, and that testimony, ladies and gentlemen, stands before you wholly uncontradicted.

What does that prove? Well, it proves a couple of things. First, I submit, it disproves that Barnaba had a motive to put Mr. Tolopka in this case, because if Tolopka made that story up he made it up to show why Barnaba was out to get him and why he is right here, that had to be the reason. But, ladies and gentlemen, Inspector Vismale told you it never happened. No Fair Motors, no Mr. Fair, no \$300 either, no deal with John Barnaba, no receipt either.

He alsomade up another little story which

Inspector Vismale rejected conclusively, refuted conclusively,

I should say. The '69 Cadillac he said he bought in

September or October, P & J Motors. Inspector Vismale

testified no such sale by P & J Motors in 1970.

Interested witness? Motive to lie? If no \$300 payment to Barnaba, and there was none according to this record, then there is no defense. The motive down the drain, down the drain. What motive would Barnaba have to

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lie about Tolopka, a former police officer, 41 decorations, possible motive.

One other significant item I think about Mr.

Tolopka goes to, among other things, his credibility.

Defense counsel did some sleight-of-hand with his finances there in his summation.

Just very briefly, it's important, I think.

He told you that he left the Department in 1966, \$1300 lumpsum payment, compound interest eight years, 1974, sure, he
had plenty of money in the bank.

Well, this isn't quite the way it is. He put in evidence his 1970 tax return, the return for the year 1970, filed I guess April 15, 1971. That's four years after he left the job, the Police Department.

30 to 40 thousand in the bank in 1970, 15 to 20 thousand in securities. Tolopka's testimony, not mine. That's reported income. He said no income from jewelry sales until 1973. Of course, he hasn't filed a tax return for '73 yet.

Well, the \$13,000 lump-sum payment has to cover a lot of things. He bought, in addition to what he had in 1970, land up-State for cash, '67 or '68, my recollection is \$4000 -- the record speaks for itself -- '67 Plymouth, 3000 cash, '69 Cadillac, \$2000 cash, all between '66 and

'70, '66 Cadillac, cash, a home and a half, maybe two, three cars, wife not working, highest salary before taxes \$12,000 gross.

It can't be done. You couldn't do it. I couldn't do it. He didn't do it. Again, your common sense.

So, ladies and gentlemen, when you pass upon the defendant Tolopka's guilt or innocence, please look at the whole record and please don'g be misled. It's not the criminal Barnaba against the decorated former police officer Tolopka. That's not what is in this record. On the record, on this record, it's Barnaba, who has been corroborated in all respects, against the word of a corrupt former cop who deliberately made up and swore to a story about dealings with Barnaba which have been proved whollyfalse, not just by Barnaba's testimony, but out of the defendant's own mouth.

I will speak briefly to the defense of the defendant Angelo Mamone. One item of evidence, as I recall -- again, the record, and it's your recollection of that record that counts -- one item in the defense offered by Mamone, moving company records showing a move from the Bronx to Florida, I think Fort Lauderdale, in January of 1973. A move, household move.

I don't know what that proves, except maybe the defendar has furniture or a good deal of furniture.

Prove anything else? You can fly -- in the first place, we are talking about January, '73, January, '73, right, not '70, '71, when you know on the record what Mamone was up to -- you can fly from Florida to New York City almost as fast as you can drive a car from the north end of the Bronx to this courthouse if there is a tie-up on the East River Drive or Deegan or something.

I don't know what it proves. I don't believe it requires any further comment from the government.

It speaks for itself. It proves nothing but Mamone's desperation.

Your Monor, might I have five minutes? I am almost finished.

THE COURT: You want to continue or do you want to take --

MR. CURRAN: Might I take five minutes?

THE COURT: Sure. Ladies and gentlemen, Mr.

Marshal.

(Recess.)

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(In open court; jury not present.)

MR. RICHMAN: Your Honor, I move at this time for a mistrial as to the defendant Benjamin Tolopka due to the fact of Mr. Curran's remarks as to the defendant being a corrupt ex-cop. There is no testimony at all to that effect, your Honor, and to the contrary, there is testimony to the effect that he was a very good and honest cop.

MR. CURRAN: Your Honor, I think Mr. Richman quoted me accurately, I said corrupt former cop.

THE COURT: No, the motion is denied.

MR. RICHMAN: In addition, your Honor, Hr. Curran made reference to a tax return for 1970 in evidence. No such tax return exists, it never has existed, at least not in this connection, and I think that should be corrected.

As to the amount \$11,000 being earned which Mr. Curran made reference to, this is not what is shown in the tax return which is in evidence, '71 and .72.

> THE COURT: '71 --

MR. RICHMAN: And '72.

THE COURT: All right. Do you want to mention the '71 or '72 or do you want me to?

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MR. CURRAN: I don't care, your Honor.

The point that I wanted to make is exactly the same.

There are two tax returns in evidence. I will mention it, your Honor.

THE COURT: All right. Go ahead.

MR. RICHMAN: And the next is in excess of \$13,000 in each year.

MR. ROSENBAUM: I just want to make one statement, your Honor.

With reference to the defendant D'Amico,

Mr. Curran said that the testimony of Mr. Finn corroborate
that of Mr. Stasi. The very basic difference,
especially in view of the fact Mr. Stasi said Mr. D'Amico
lived in apartment 2B and the lease which is now in
evidence clearly indicates that the apartment was 2A,
in addition to other inconsistencies, shows no
corroboration at all.

THE COURT: That is a matter for argument.
Yes, Mr. Siegal?

MR. SIEGAL: If your Honor please, I respectfully move for a mistrial upon the ground that Mr. Curran told this jury that Vincent DiNapoli was at the house after the money was taken and he is a friend of Tramunti.

Your Honor will recall four times, three times at the side bar and once from the floor, the objection was made to that and your Honor ruled against permitting that inference to be taken and that testimony to be brought in.

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THE COURT: Yes?

MR. CURRAN: Your Honor, it came out

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through the testimony of Mr. DiBenedetto.

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THE COURT: I am well aware of it.

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MR. CURRAN: In front of the jury.

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THE COURT: It came out in front of the

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jury and also --

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MR. SIEGAL: Your Monor had ruled that our Monor

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you are not permitting that inference. Three times

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your Honor ruled against it.

MR. CURRAN: That was with another witness,

your Honor, as I recall the testimony.

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THE COURT: I am well aware of that.

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MR. SIEGAL: If your Honor please, I also

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respectfully move for a mistrial upon the ground that Mr.

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Curran told the jury that Tramunti and Inglese were counting money. Where is that in this record?

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THE COURT: All right, your motion is

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denied.

Go ahead.

MR. SIEGAL: May I just call one other matter to your Honor's attention?

THE COURT: Yes.

MR. SIEGAL: A court reporter has stated that with respect to my objection before with respect to the name of Tramunti being used as having introduced Stasi to the narcotics business, the court reporter says that Mr. Curran didn't mention the name of Tramunti. We are getting a report.

MR. CURRAN: Your Honor, I frankly don't know whether I did or not, but I submit if I did it is fair argument on this record.

Go ahead. Let us get the jury in here and let us finish. How long are you going to be?

MR. CURRAN: I would think, your Honor, 15 or 20 minutes. Somewhere in there.

THE COURT: Don't make it any longer.

(Jury present.)

THE COURT: All right, Mr. Curran.

MR. CURRAN: Thank you, your Honor.

Finally, ladies and gentlemen -- I am sure you are glad to hear that adverb coming from me -- I turn to the man Mr. Phillips aptly, the government submits,

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described in his opening statement as the chairman of the board, the financier of this enterprice, Carmine Tramunti.

The defense has suggested to you, in fact, told you, that the only witness to implicate Carmine Tramunti is that liar, Frank Stasi.

and I stress once again the record; not the arguments of counsel, mine or anybody else's -- you will find, we submit, as I have already outlined, that Frank Stasi's testimony at this trial has been candid, truthful and on the entire record has been fully corroborated by independent evidence.

Ladies and gentlemen, if you think for one minute that someone of Tramunti's stature, financier of a narcotics operation the size of Inglese's, would ever be caught touching narcotics, I submit this would be just as much of a mistake on your part as to believe that Inglese personally cut narcotics. That is not the way the narcotics business works. That is not the way businesses are worked. Again, common sense. The money men don't touch narcotics.

The chairman of the board of a narcotics operation doesn't handle narcotics any more than Henry

Ford personally works on an assembly line. Common sense.

What needs to be done — the evidence, the record — as far as Carmine Tranunti and what the government urges you to do during your deliberations is to examine very, very carefully, minutely, every detail, every detail of Frank Stasi's testimony about his dealings with Tramunti and Inglese.

Please don't be misled and take one sentence is in isolation and passing upon it. We don't do that in a common sense way in regular life. Please don't do it here. Look at all the evidence, all the evidence. If you do, this is what you will find, we submit:

First, Stasi testified that he saw Tramunti every day at the Lo Piccolo beginning some time in 1972.

We-know from Stasi's testimony, and I refer to page 383 of the record of this case, that Tramunti was there part of each day and part of each night.

And we also know both from Stasi's testimony and from other independent evidence, not Stasi's testimony, that Tramunti and Inglese did meet at Lo Piccolo.

We know from testimony that they held many conversations in Lo Piccolo out of Stasi's hearing and in the hearing of no one else.

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The testimony is, Frank Stasi's testimony, one day at about 2:30 in the afternoon, Tranunti and Inglese were in Lo Piccolo talking together alone, as they had in the past, according to the record, and this time Stasi passed them by on his way to the men's room and he overheard Inglese say to the defendant Tramunti, and I quote -- it is page 384 -- "I expect some goods. I am going to need some money."

Now, what, according to the testimony, was Carmine Tramunti's response?

Well, Stasi told you, according to the record,
"Carmine nodded his head." artists. Then Tramunti and Inglese
stopped talking as Stasi passed them by. Transferenced too.

Now, It has been suggested to you, argued to you, urged to you most strenuously that a nod of the head means absolutely nothing. Well, again, ladies and gentlemen, your common sense has to come into play. We nod our heads, nod, the word we nod our heads up and down, we nod "yes" we shake our heads "no." So the only fair conclusion so far, so far in the record -- and I have to take it piece by piece -- is that Carmine Tranunti nodded his assent, because you don't nod dissent -- his assent to what Inglese just said, and Inglese had just talked about goods, and we all know over this

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record, not just Stasi, that goods means narcotics.

And I submit to you, ladies and gentlemen,
even if he said "something," even if he didn't say
"goods," that is very important. Perhaps not that one
conversation, but please, again, the whole record.
He said "goods."

Remember, too, please, that the nod, the assent by Tramunti took place with Stasi on the scene right there. Common sense. Was it caused by Stasi's arrival and presence on the scene and the possibility that a third party had heard Tramunti and Inglese engaged in a narcotics discussion?

The next item of evidence in the record.

As he was returning from the men's room Inglese said to

Stasi, and I quote again on page 384,"'I want to see you,

I want to talk to you.'" in Tramunti's presence.

Shortly after that Inglese told Stasi, "I will see you tomorrow," again page 384.

Ladies and gentlemen, that is the first transaction. Again the government asks you to look at the entire record. Standing alone -- we are not arguing here that that conversation standing alone establishes Carmine Tramunti's guilt beyond a doubt, beyond a fair doubt, beyond a reasonable doubt, but it

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doesn't stand alone. It doesn't stand alone and we have to look at what happened next in relation to this incident.

A couple of days later, again, according to the record, Stasi again saw Inglese, as Inglese was going into Lo Piccolo, and Stasi said to Inglese, "You wanted to talk to me."

Inglese replied -- this is the next page, 385 of the record -- Inglese said back to Stasi, "I expected some goods and I didn't get it."

We know what that conversation means. There is no dispute about that. We know that goods means narcotics, goods.

The next significant event in this context

took place a couple of months later when Stasi went

with Vincent DiNapoli and at DiNapoli's invitation to

see Euddy Rich at the Tear Drops Bon-Soir. You will

recall when Vincent DiNapoli first invited Stasi, Stasi

said, and I quote, "Well, I don't feel like going,"

and Vincent DiNapoli then changed Stasi's mind. Vincent

Vincent DiNapoli said, and I quote from the record, page 387, "The old man is coming, why don't you come? He always gets along with you."

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A short time after that Tramunti came to

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Lo Piccolo, and Tramunti, DiNapoli and Stasi went in Stasi's car to the Tear Drops Bon-Soir.

You know, ladies and gentlemen, Stasi didn't make this up because he was seen in the company of Tramunti driving in his car, Stasi's car, to the night club, and we know from the testimony of three police officers that they went there together on the night of February 12, 1973.

When they arrived, according to the record, they were assigned a table which had been reserved in Vincent DiNapoli's name and that table, according to the testimony and the diagram, was apart from the other tables and elevated and out of the way of the traffic, the traffic in the night club.

You also know from the testimony, and not just Frank Stasi's testimony, as I said, fully corroborated by three police officers, that Stasi sat next to the defendant Carmine Tramunti and that they talked.

You can say five, six hours, just that
little conversation? Nobody testified that that was
the entire conversation for the time they were there.
He testified to a conversation, Stasi did, and I am going
to come to that conversation.

At one point Tramunti said to Stasi, and I

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guote from page 389 of this trial's record, "I miss the big guy. Without him, nothing goes right. You know, the club, there's nothing happening in the club."

Stasi then said to Tramunti, and I quote, "By the way, I am going to see Gigi."

This happened. It happened the way Stasi testified it happened, we submit.

It has been suggested it didn't happen, they weren't at the Tear Drops. Vincent DiNapoli was there. Vincent DiNapoli came to court. He didn't come to testify up there, no.

Manhattan, he visited Inglese, and as you know by the stipulation Inglese was then in the Tombs, in jail.

And at the jail Stasi and Inglese had this conversation, and I want to read it to you directly from the record in this trial, pages 390 and 391 of the transcript.

This, ladies and gentlemen, is an extremely significant conversation, not taken in isolation, but taken, as all conversations must be taken and as all evidence must be taken, in context.

- "Q Did you go and see Gigi?
- "A Yes, I did.
- "O When?

says to him, 'You know, I seen Carmine about the club and no, you would know.

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"Through that there, he says, 'If you don't know what's happening, I don't know. Just say no. " Parenthetically, my comment, "Just say no," Gigi is telling Stasi just say no to Carmine Tramunti.

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And as a result of that what did you "0 do?" stasi again testifying.

"A Well, I went to the Lo Piccolo's the next day and he was standing watching them playing cards.

> Who was? "0

Carmine Tramunti was watching them play-"A I said," this is in quotes, "'I went to ing cards. see Gigi. He told me no about the conversation.'

Did Carmine Tramunti say anything about the conversation?

He said, 'All right, I guess nothing is happening. "

Now, ladies and gentlemen, if there is any question in your minds, and it is suggested to you that there should be, about the meaning of those conversations, that question is entirely eliminated by Inglese's inquiry to Stasi at the jail when he asks, "Have you seen Joe Crow or Finnegan?"

Who are Joe Crow and Finnegan? You know from the evidence in this case they are two of Inglese's most trusted lieutenants in his narcotics operation.

And do you recall the testimony of Stasi about the conversation between Inglese and Tramunti after Inglese was released from jail on April 26, 1973?

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You know, not from Stasi's testimony but from the stipulation which is before you that Moe Lentini was arrested on federal charges on April 14, 1973 and was held in \$75,000 bail, which he didn't make until May 4, 1973, approximately a three-week period. About a week or so after Inglese's release from jail, April 26th, early in May, Inglese was complaining to Tramunti about the unavailability of Moe Lentini, the same Moe Lentini, and he was stressing to Tramunti Lentini's importance in Inglese's narcotics operation. This is the same Moe Lentini who has been mentioned in this case.

Ladies and gentlemen, I want to correct the record or my recollection of it, but again it is yours I understand that I said that the that governs. conversation at the Tear Drops Bon-Soir was a few months after the Lo Piccolo conversation. The record, of My recollection of the course, speaks for that. record is it was about one month just before Inglese -just before the middle of January of 1973. The Bon-Soi conversation, as weknow from the testimony, was on There is a documentary exhibit February 12, 1973. in addition to other testimony of the police officers on that.

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As a matter of fact, talking now to that

Lentini conversation that I just mentioned, Stasi told

you the conversation involved more than just cash was

needed, property was needed. And you heard from

the stipulation that a deed of a Vincent Triponi was put

up as security.

Now, what was said at this meeting -- again, the whole of the evidence -- from which you may infer that Tramunti was behind Inglese's operation?

Ladies and gentlemen, I would like to go to the record on that and it will be, I believe, the last quotation from the record I want to read to you, but it is terribly important and terribly significant.

The question is, "Now, would you tell us what the conversation was that occurred?

This is Stasi testifying.

"A Well, when I was in the Lo Piccolo's I overheard Gigi tell Carmine Tramunti 'we are having a problem getting Noe Lentini out of prison.'

- "Q Did you hear what Carmine Tramunti said?
- "A Well, he says --
- "Q First of all, let me interrupt you a minute. Was anybody else present besides you, Gigi and Carmine Tramunti?

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"A Myself.

What did you hear?

A" They were talking about Moe Lentini. Gigi had told Carmine Tramunti, he says, 'We are having a tough time getting Moe Lentini out.'

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"So with that Carmine says, 'Well, get him out." And Carmine says, he says, 'What is the bail?'

"Gigi says, 'It's \$75,000."

"So Carmine replied, he says, 'You mean to tell me you can't get up \$75,000? Well, try to get him out.

> "0 Who said that?

"A Carmine Tramunti.

"0 Said that to him?

"A To Gigi and myself, I was present.

"Q What did Gigi say?"

Please listen carefully to this. I submit it is awfully significant.

He says, 'It's not the \$75,000. We need collateral. We need property.

"So with that, Carmine says, 'There's nothing I can do about that.'

And was anything else discussed at that "0 time, that you recall?

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"A Well, Gigi had says to me, 'Jeez, I'd like to get him out, because it's important to the organization, because Joe Crow right now can't do anything, and he's very good with figuring and mixing. So we've got to try to get him out.'

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"Q Who was he referring to when he said, 'He's very good with figuring and mixing?'

Moe Lentini.

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"Q And was Carmine Tramunti present when Gigi said that?

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"A Yes.

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"Q Did Gigi say why he couldn't use Joe

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Crow?

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"A Well, Joe Crow was hot.

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"Q Did he say that?

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"A Yes.

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"Q Did he say it on that occasion?

Ladies and gentlemen, we submit that on all

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"A Yes."

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the proof, and please, again, in context, and all of it,

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those conversations establish beyond any fair doubt

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that Carmine Tramunti had a stake in the narcotics benture, that he participated in it as something that

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he wished to bring about and that he sought by his actions,

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2 his words, to make it succeed. Clearly these conversations, taken in context and understanding the operations 3 of the people involved, the understanding of the reference 5 to Finnegan and Joe Crow and goods and something happening and nothing happening, what else was happening, 6 7 narcotics -- taken together we submit it establishes 8 Tramunti's leadership role in Inglese's operation. 9 They establish that when he needed money to finance nar-10 cotics deals or when he needed help, help for, and 11 I quote, the organization, he had to turn to Carmine . 12 Tramunti. 13

Again, ladies and gentlemen, the record,
please, and your common sense, there is no other
interpretation, reasonable or otherwise, of these transactions and Tramunti's role in them.

Well, the defense has argued time and again -I mentioned this before and I will be very brief but it
is very important -- Frank Stasi is a liar and a clever
one. It has been alleged, cleverly. Others allege
that he is stupid, but he was a clever liar. And he
will lie to Frank Rogers, he will lie to Mr. Phillips
and he will lie to anybody.

Well, think about this. Again, common sense.

If Frank Stasi is a liar, clever or stupid, clever or

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stupid, couldn't he have done a much better job about lying? Couldn't he have? Change a word or two? That's all he had to do. If he wanted to lie, he could have made up a story about Carmine Tramunti dealing in narcotics, handling narcotics money. He didn't do that. He told it like it was as he knew it.

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Ladies and gentlemen, this is a narcotics business. The proof has shown that, we submit. The head of the operation doesn't handle narcotics. That is left to the Finnegans, the Crows, the Warren Robinsons, the Henry Salleys, the Frank Russos, who sell narcotics to police officers. Yes, it's even left to the Frank Stasis and it is even left to the Gigi Ingleses, who himself handled heroin from time to time.

But, ladies and gentlemen, that is not the role of a financier, that is not the role of a Carmine Tramunti. Without a witness like Stasi, the kingpins, the financiers of the narcotics business, cannot be brought to justice. But this kingpin, this financier, made one fatal blunder, one fatal error. When his manager, Inglese, was in jail, he violated the cardinal rule of a financier in the narcotics business and he used somebody else, in this case Frank Stasi, to carry the message to the manager and to report back to him.

That error, that blunder, established on this record, proves Tramunti's participation in this narcotics business. It proves beyond any fair doubt, we submit, his guilt of the crime charged against him in this indictment.

I would like to just thank you for your patience.

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You have been awfully patient. I have one final word on the overall picture of this case, if I may.

When all the excess language is cleared away, when we stick with the record, the bottom line, as they say, of the arguments to you by the defense, lawyer by lawyer, defendant by defendant, for three and a half days, has been that the evidence in this case was made up, was made up by tailoring the testimony of the witnesses called by the government, was made up by the United States Attorney's office, a cover-up.

MR. FISHER: I object to that, your Honor.

I made no such claim.

THE COURT: Co ahead.

MR. CURRAN: One lawyer attacked Mr. Phillips' testimony from the witness stand when he didn't like the answers Mr. Phillips gave under oath. Another lawyer suggested -- again, it is your recollection, not mine, but it seemed to me to be a suggestion -- that Mr. Phillips got Harry Pannirello to identify Joseph Di Napoli by some sort of suggestion, improper coachingat a recess, putting false testimony in Mr. Harry Pannirello's mouth, framing him.

Another lawyer said this case involved just throwing people in just like a dragnet.

And this was the primary, indeed, I think it is not unreasonable to say almost the only message of all those arguments when you strip it all down to the bare essentials. Think about it, please. I stress the word "arguments" because they certainly didn't attempt to confuse you with the facts.

Well, I understand, all counsel must be advocates. I'm an advocate, too. Defense counsel have to be advocates for their clients, that's their eath, and a defendant's counsel argues for his client.

Well, ladies and gentlemen, as the United States
Attorney for this district I have a great obligation too
and esteem for my client. My client is the United States.

I want to leave you with the knowledge that that obligation
is one to which I am firmly committed.

Ladies and gentlemen, we have an obligation to justice. That is my obligation, it is Mr. Phillips', Mr. Fortuin's, Mr. Engel's, in this case and in every case.

Our part of the case is now over. It is in your hands.

Weask now only -- nobody can ask any more -that you do justice, justice to everybody, and we respectfully submit that justice in this case means that you find

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these sixteen defendants guilty as charged.

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Thank you.

THE COURT: All right, Mr. Marshal.

MR. FISHER: Your Honor, will you make the

cuationary instruction before the jury leaves?

THE COURT: Yes.

-Someone just said that everything is in your hands. Well, it is not quite yet. I told you that I will be charging you tomorrow morning. I recognize that brevity is the soul of wit, but unfortunately I cannot be brief tomorrow.

Please, please, please don't make up your mind yet. There is a lot that I have to say. Only after you hear that and only after you are told to go back and deliberate, then start making up your mind.

Okay, have a good evening.

(The jury left the courtroom.)

MR. ELLIS: Your Honor, at this time I move for a mistrial on behalf of the defendant Mamone on the grounds - that the United States Attorney has attacked the credibility and the motives of the defense attorneys in this case in implying that we attempted to mislead the jury and to deceive the jury in any way and, further, in placing the prestige of the United States Government itself in this

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case as a factor to be considered by the jury.

MR. FISHER: If your Honor please, I, of course, join in that, but I would like to point out specifically that I went way out of my way to make it clear to the jury that I was not attacking the United States Attorney or anybody at that table. Now, this is one of the problems one has at a trial of this sort and I respectfully move that the defendant Christiano is entitled to a mistrial. The cases are clear this is improper, unless the integrity of the U.S. Attorney or his representative is specifically questioned during defense summations. I absolutely represent I came nowhere near it.

I think we, that is Finnegan and I, your Honor, are entitled to a mistrial.

MPS. ROSNER: I join in that, your Honor.

MR. EPSTEIN: Your Honor, on behalf of the defendant Tramunti, I move for a withdrawal of a juror.

THE COURT: Everybody moves for it, is that correct?

MR. SIEGAL: Yes.

MR. LOPEZ: Yes.

MR. ROSENBAUM: Yes.

THE COURT: All right. The motion is denied.

MR. WARNER: In light of Mr. Curran's summation,

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I would respectfully request that in your Honor's marshalling of the facts tomorrow that your Honor call the jury's attention to my question to Frank Stasi, "Do you have any problem recognizing the color red," and his answer "No" over Mr. Phillips' objection and, in addition, if your Honor is going to refer to Mr. Cermak -- I don't know whether your Honor will or not, but if your Honor is, to refer also to that portion of Mr. Cermak's testimony where he stated that in addition to the work on the shifts, Mr. Ceriale worked a lot of overtime.

THE COURT: I will think about that.

MRS. ROSNER: Your Honor, I would like to amplify the motion for a mistrial in this regard:

Mr. Curran in one breath said defense counsel made the arguments they can make to the record and he is committed to justice and I think it is unfairly argumentative, your Honor, and I think before the charge begins tomorrow the jury should be instructed that all counsel make the arguments that are on the record and all counsel are devoted to getting justice in this courtroom. I think it is entirely unfair.

THE COURT: All right.

Mr. Richman.

MR. RICHMAN: I am waiting for a ruling on Mrs.

Rosner's motion.

THE COURT: I will rule on it tomorrow morning.

Are you going to wait?

MR. RICHMAN: No, your Honor, I will give it to you now.

I would like your Monor to call attention to those issues that I spoke to you about at the last recess to correct the United States Attorney's misrepresentation or misstatement of the facts in this case, to wit, those tax returns for Mr. Tolopka and the amounts of money involved.

MR. CURRAN: Your Honor, I apologize. I had meant to do it and I didn't, and now it is up to your Honor. I would have preferred to do it.

THE COURT: I will take care of it. All right.

It has been a long day.

Wait a second, don't walk away, because you might come in at the wrong time tomorrow.

Be here at 9.30.

MR. RICHMAN: Does your Honor know how long your Honor is going to be?

THE COURT: How long I am going to be? I will tell you right now, I will be very long.

MR. RICHMAN: All day?

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THE COURT: No, not that long. But the only way
to marshal the evidence is to marshal it all and do it in
a fairly flat, fair way and that is what I am going to do.

MR. WARNER: Will your Honor be long enough so there will be a lunch break in between?

THE COURT: No, no. I won't have any voice left.

All right, see you at 9.30 tomorrow morning.

(Adjourned to March 8, 1974, at 9.30 a.m.)

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